

COLORADO

COMPLIANCE MONITORING

POLICY AND PROCEDURE MANUAL

APRIL 2016



C:\\DCJ Manuals, Handouts, Brochure: 2016 Colorado's Compliance Monitoring Policies and Procedures Manual

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COMPLIANCE MONITORING POLICIES AND PROCEDURES INTRODUCTION

Monitoring means to watch, observe, or check for a special purpose. In this case, the special purpose is to see that the goals of the Juvenile Justice Delinquency Prevention Act of 2002 are fulfilled: deinstitutionalization of status and non-offenders, the separation of alleged and adjudicated delinquents, status and non-offender juveniles from adult offenders in institutions, and the removal of juveniles from adult jails and lockups. Monitoring also means the evaluation of how well the purposes of the JJDP Act are being met, and the taking of remedial action where necessary.

For these monitoring purposes the following policy and procedure manual will be utilized in carrying out these tasks.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) require that States participating in the JJDP Act have an adequate compliance monitoring system which includes the 10 compliance monitoring elements and the **ANNUAL**:

- Identification of the Monitoring Universe
- Classification of Facilities
- Inspection of Facilities
- Data Collection and Data Verification

This Compliance Monitoring Policy and Procedure Manual will describe each of these elements in detail and will serve as a Desk Manual for the Colorado Department of Safety, Division of Criminal Justice, Office of Adult and Juvenile Justice Assistance compliance monitor.

**FORMAT FOR COMPLIANCE MONITORING
POLICIES AND PROCEDURES
TITLE AND NUMBER**

Date Issued:

Last Review:

Related OJJDP Regulations:

Statement of Purpose - (why you have this policy):

Policy - (overview of process):

Procedures - (step by step, how to implement):

- Who 1.
- What 2.
- Where 3.
- When 4.
- How 5.

Attachments - (forms, related materials.)

Appendix - (other related materials too lengthy to include with policy)

1.0

COLORADO'S COMPLIANCE MONITORING PLAN

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual and Audit Manual

Statement of Purpose:

Colorado is required by OJJDP to have a written plan that provides for an adequate system of monitoring secure and non-secure facilities to ensure that the core protections of the JJDP Act and Formula Grant Regulations are being complied with.

Assessing compliance affects Colorado's eligibility for formula grant funding and participation in various programs offered through OJJDP. Noncompliance with any of the four core requirements results in a 20% reduction of Formula Grant funds awarded to the state. In addition, 50% of the remaining funds must be spent on the core requirement Colorado is out of compliance with. An effective compliance monitoring system clarifies gaps in the continuum of care and highlights challenge areas in a State's juvenile justice system. As a result, compliance monitoring can represent a component in the process of state policy and program development.

The JJDP Act is more than a funding statute. It creates an enforceable private right of action. States assume duties when they accept the federal funds and when those duties are breached a juvenile may seek a remedy pursuant to 42 U.S.C.A. Section 1983 see *Hendrickson v. Griggs*, 672 F. Supp. 1126 (N.D. 1987); *Horn by Parks v Madison County Fiscal Court* 22 F. 3d. 653 (6th Circuit 1994). Noncompliance will open the door to section 1983 conditions of confinement litigation raising damage claims under the 8th Amendment Cruel and Unusual Punishment Clause and the 14th Amendment due process clause. In *D.B. v Tewskbury*, 545 F. Supp. (D. Or. 1982) the court found the practice of jailing juveniles to be a per se constitutional violation of the 14th Amendment. Several other claims would likely be raised as well: classification and safety issues, inadequate programming for juveniles, inadequate educational programming (especially special education claims), and inadequate mental health care.

Policy:

The monitoring plan must describe:

1. The barriers faced in implementing and maintaining a monitoring system, and the state and local strategies and plan to overcome such barriers.
2. The legislative and/or administrative procedures that have been established for the state to receive, investigate, and respond to reports of compliance violations.
3. The detailed description of monitoring tasks which includes the identification of the agency responsible for each task.

4. The monitoring authority the State Planning Agency has been granted in order to perform the compliance monitoring tasks.
5. The definition of terms the State Planning Agency will use when conducting the compliance monitoring.

Procedures:

The monitoring barriers, the legislative and administrative violation procedures, the detailed description of the monitoring tasks, the monitoring authority and the exclusive use of federal definitions in compliance monitoring is addressed in subsequent policies.

The Compliance Monitoring policies and procedures are to be reviewed by the DCJ OAJJA Manager and compliance monitor on or before December in even numbered years.

Attachments: None

1.1 COMPLIANCE MONITORING BARRIERS AND STRATEGIES

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual and Audit Manual

Statement of Purpose:

A description of the barriers faced in implementing a monitoring system as well as the state and local strategies and plans to overcome those barriers are necessary to maintain integrity within the compliance monitoring plan and system.

Policy:

The following procedures to identify barriers and the plans to overcome those barriers will insure that Colorado maintains a monitoring system with integrity that is annually reviewed.

Procedures:

1. The Division of Criminal Justice, Office of Adult and Juvenile Justice Assistance, will annually plan and organize a Juvenile Justice Council retreat. A portion of the agenda will be set aside to discuss the current compliance status, the barriers to compliance, and to develop state and local strategies to overcome these barriers. Discussions will be recorded in Council minutes. The retreat is held once a year and coincides with funding decisions.
2. The Division of Criminal Justice compliance monitor will submit for Council discussion and action at the retreat a written and oral report on the:
 - A. Barriers faced in implementing and maintaining a monitoring system and barriers faced in maintaining compliance with the JJDP Act.
 - B. Recommendations for state and local strategies and plans to overcome those barriers.
 - C. An annual report on the number of juveniles held and the number of violations by the type of facility. At a minimum, reports will be compiled for Sheriff's Departments, Police Departments and Juvenile Detention Facilities.

3. From Council discussion and staff input a written strategy plan will be developed to address the barriers in the coming year and will be reflected in Council minutes.
4. The Division of Criminal Justice and the compliance monitor will implement the written strategy plan and will provide written and oral updates to the Council, as requested, during regular Council meetings which are held four times a year.
5. The written plans may include, but are not limited to, the following activities:
 - A. Regional training workshops for those agencies involved in monitoring or implementation of the JJDP Act.
 - B. Administrative meetings with those agencies involved in monitoring or implementation of the JJDP Act.
 - C. Pursuit of state legislation to overcome barriers to monitoring.
 - D. Local coordination, i.e., intensive problem solving and planning for agencies requiring assistance to realize compliance with the Act core protections.

1.2 COMPLIANCE VIOLATION PROCEDURES

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual and Audit Manual

Statement of Purpose:

Once a compliance monitoring system has been established to monitor secure and non-secure facilities to ensure that the core requirements of the JJDP Act and Formula Grant Regulations are being complied with; it is critical to then outline the administrative procedures that will be used by DCJ to receive, investigate, and respond to reports of compliance violations.

Inspections or other mechanisms that identify incidences of non-compliance, or other deficiencies which may be dangerous to confined juveniles, are only of value when DCJ can act to correct or eliminate the identified problem. Written violation policies and procedures should be available so all concerned will know what is expected of them and what action may be taken.

Policy:

The Governor's Executive Order, first issued in 1980, gives the Division of Criminal Justice oversight authority in complying with the JJDP Act. The Division of Criminal Justice is therefore responsible for receiving, investigating, and responding to reports of compliance violations. The Division of Criminal Justice is the State Planning Agency for the JJDP Act of 2002.

In addition, House Bill 06-1112 gives DCJ statutory authority to collect data. CRS 24-33.5-503 Duties of (Division of Criminal Justice) Division: "(1) the division has the following duties: to inspect secure juvenile facilities and collect data on juveniles that are held in secure juvenile facilities, jails and lockups throughout the state."

In terms of violation authority, CRS 19-2-508(8)(b) states: " A Sheriff or Police Chief who violates the provisions of paragraph (a) of this subsection (8) may be subject to a civil fine of not more than one thousand dollars."

All classified facilities should have available to them, through the DCJ compliance monitor, the compliance issues that are contained in Colorado's Guide For Implementing the Core Protections of the Juvenile Justice and Delinquency Prevention Act. This guide has been handed out during on-site visits. In addition, it is available on the DCJ web site.

The mechanisms for violation reports take several forms: through the compliance monitor, the facility itself may report violations, interested citizens, the Public Defender's Office, parents, or

the agency with oversight authority. While the DCJ compliance monitor is responsible for the compliance violation investigation and follows up, the DCJ OAJJA Manager retains primary responsibility and merely delegates this task to the DCJ compliance monitor.

Procedures:

1. The Division of Criminal Justice compliance monitor will perform statewide monitoring; a detailed description of the process and tasks is contained in subsequent policies.
2. The DCJ compliance monitor will be the primary agent to discover and report compliance violations throughout the state, and to investigate the violations. Violations are most usually found through a detailed review of juvenile holding cell logs. The review occurs either onsite when the DCJ compliance monitor reviews the logs or when the facility mails the logs to DCJ.
3. When the Division of Criminal Justice receives an independent compliance violation report they will utilize the DCJ compliance monitor to investigate it.
 - A. Independent sources may include:
 - The Juvenile Justice Council
 - The Colorado Division of Youth Corrections
 - Administrators of public and private agencies including the Public Defender's Office
 - Interested citizens and/or parents
 - Youth
4. The process used to receive, investigate and respond to compliance violation reports is:
 - A. All reports of violations will be turned over the DCJ compliance monitor. The report may be received through an independent source or from review of the Juvenile Holding Cell logs and Division of Youth Corrections Trails printout.
 - B. If a violation of DSO, Jail Removal or Sight and Sound is reported or discovered, the DCJ compliance monitor will fully investigate the violation. The investigation will always involve a review of the juvenile's case file to confirm that a violation actually occurred. In many cases, incorrect information is recorded on the Juvenile Holding Cell log and the entry may appear to be a violation. Upon further investigation it may be revealed that the times or charges were recorded incorrectly. All violations will be discussed with the facility administrator or contact to explain why they were violations and what remedial actions may be taken to prevent future violations.
 - C. The DCJ compliance monitor will complete a Compliance Violation Report describing the violation. It will be mailed to the facility administrator or contact. A sample Compliance Violation Report is included with this policy. A copy of this report is placed in the individual Facility File.

- D. The DCJ compliance monitor will provide intensive follow-up onsite visits to facilities where compliance is a problem. Intensive follow-up is defined as at least twice yearly onsite visits to review juvenile holding cell logs. The purpose of the onsite visits is twofold: 1) to review records and 2) to provide technical assistance so the facility may achieve compliance.
 - E. The DCJ compliance monitor will provide compliance monitoring progress reports as requested by the OAJJA Manager.
5. DCJ may follow-up a compliance violation with any action that is deemed responsible and appropriate.
6. For internal tracking purposes, the following steps will be taken on every violation:
- A. The violation will be recorded on the Monthly Summary of Juveniles Held. One copy of the Monthly Summary of Juveniles Held is contained in the individual Facility File. A second copy is contained in the compliance monitor's notebook. This notebook contains a Master Facility List as well as Monthly Summary of Juveniles Held forms for all secure facilities. These forms are the basis for the annual OJJDP Compliance Monitoring Report.
 - B. The Compliance Violation Form is filed in the individual Facility File and is mailed to the Facility.
 - C. The violations are then recorded for yearly reporting to OJJDP.
7. At juvenile detention or correctional facilities compliance violations are reported on the six year summary of juveniles held by judicial district at each facility with an explanation of why a violation was counted that way. In addition, violations are discussed during Valid Court Order reviews which occur on-site every six months.

Attachments: Compliance Violation Form

**Colorado Division of Criminal Justice
JJDP Act Compliance Violation Report
(On Letterhead)**

Agency In Violation: Name of agency

Agency Address: Agency address

Agency Administrator: Sheriff, Chief, Director, Administrator or Contact person

Date of Violation(s): Date the violation(s) occurred

Violation Narrative: Describe the violation. "On this date, juvenile was held securely from hour until hour for offense"

Reason for Violation: Describe why it is a violation and what core requirement(s) was/were violated.

Investigation Date: Date you either reviewed logs onsite or by mail.

Compliance Monitor: Which compliance monitor is reviewing, phone number

Suggested Follow Up: Describe what follow up action is required or requested. It may be a memo to all officers, may be a modification in handling juveniles, may be a reprimand, and may be that the compliance monitor needs to provide technical assistance.

Date This Letter Sent: Date you sent the compliance violation form.

Agency Response: When you receive a response, you should describe in this section.

(Copy to facility administrator or contact and copy for Facility File)

1.3

DESCRIPTION OF THE REQUIRED OJJDP COMPLIANCE MONITORING TASKS

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual and Audit Manual

Statement of Purpose:

A detailed description of the monitoring tasks as well as the identification of the agency or agencies responsible for those tasks is a necessary element to a monitoring system. The following policy describes in general terms the Compliance Monitoring system in Colorado. As the State Planning Agency for the JJDP Act, the DCJ OAJJA is responsible for monitoring and reporting under the Act.

Policy:

The DCJ OAJJA Manager and compliance monitor will annually review the monitoring tasks to be accomplished during the year as outlined in this policy.

Procedures:

1. The DCJ compliance monitor will schedule a meeting with the DCJ OAJJA Manager annually, in the spring, prior to the submission of the annual grant application for compliance monitoring/local coordination to discuss and plan the monitoring tasks for the coming year.
2. A work plan outlining the tasks, the start and completion date, and other duties will be formalized as part of the compliance monitoring/local coordination application to the Council.
3. The monitoring tasks, at a minimum, will include:
 - A. Identification of the Monitoring Universe
 - B. Classification of the Monitoring Universe
 - C. Inspection of Facilities
 - D. Data Collection and Data Verification
 - E. Quarterly and Final grant reports
 - F. Either written or verbal progress reports to the Council as needed or requested
 - G. Completion of the OJJDP Annual Monitoring Report. This report is due at OJJDP no later than January 15 of each year. The report determines funding eligibility based on compliance with three of the four core requirements

(Deinstitutionalization of Status Offenders, Sight and Sound Separation and Jail Removal).

- H. Other related duties as described.

- 4. The DCJ OAJJA Manager will supervise the DCJ compliance monitor and will ensure that all of the monitoring tasks are accomplished.

- 5. The DCJ Organizational Chart is available upon request from the DCJ Director or Administrative Assistant.

- 6. The DCJ compliance monitor is responsible for developing the yearly timeline showing what facilities are to be visited during each month, and also showing any other compliance monitoring activities that are to take place. This timeline is completed in the winter of each year and then discussed with the DCJ OAJJA Manager.

Attachments: Compliance Monitoring of the JJDP Act Timetable

COMPLIANCE MONITORING TIMETABLE

Policy	Month	Who	What
1.1 CM Barriers and Strategies	Discuss at Council Retreat once yearly data is tabulated.	DCJ Monitor OAJJA Manager Council	Prepare end of year reports Prepare materials for Council retreat Discuss at Council retreat/Include in Minutes
1.2 Leg/Adm Compliance Violation Reporting Procedures	October – September On-Going - All Year	DCJ Monitor	Receive and investigate compliance violation reports Send out Compliance Violation Forms Prepare Compliance Violation Reports and mail to facilities Mail year end charts to all LE facilities Mail year end charts to all JDC's, SB 94, Courts
1.3 Description of the Required CM Tasks	October – September Prior to writing CM Grant	DCJ Monitor	Monitoring planning begins Plans finalized in the grant application to Council Application reviewed at annual Council Retreat in the Spring
1.3 Description of the Required CM Tasks: Timetable	October	DCJ Monitor	Begin annual compliance monitoring cycle A timetable is developed, including the tasks on this timetable, and also including all the facilities to be monitored for the year
2.1 Identification of the Monitoring Universe	Begin in October End in December	DCJ Monitor	Begin the Identification of the Monitoring Universe update Call agency contacts Documentation in Compliance Monitoring Universe files
2.2 Classification of the Monitoring Universe	Begin formal process in October, end no later than December, however, classification is on-going	DCJ Monitor	Classification is an on-going process. Initial classification will be conducted in coordination with Identification. Classification will be confirmed during on-site inspections.
2.3 Inspection of Facilities	October - September On-Going - All Year	DCJ Monitor	Inspection of facilities in an on-going process, which occurs throughout the monitoring year. Initial list developed in October. Added to through the year as needed. Inspection occurs from October – September annually. This list is separate and included in the Monitoring Timeline.
2.4 Data Collection and Data Verification	October - September Data is collected and verified during the entire monitoring year.	DCJ Monitor	Data collection is an on-going process. Typically, juvenile holding cell logs will be requested via email at all secure facilities twice a year. Throughout the year logs will be reviewed onsite. At that time yearly data will be compiled. JDC data is reviewed twice yearly: April and October. It requires a data review at the courts for the Valid Court Order. DCJ has access to 100% of the data on the DYC Trails System.

Policy	Month	Who	What
2.5 Annual CM Monitoring Report :data collection and data verification	Due January 15 Data collected and verified between October – September each year	DCJ Monitor	Data is compiled and verified. The OJJDP Annual Compliance Monitoring report narrative is written by the DCJ compliance monitor and reviewed by the OAJJA Manager.
2.5 Annual CM Monitoring Report	January 15	DCJ Monitor	Deadline for submission of the OJJDP Annual Compliance Monitoring Report.
Update P/P Manual	April	DCJ Monitor	Update P/P Manual to reflect changes in legislation or procedure.
DMC Data	November	DCJ Monitor	As data is collected throughout the year, data on race, sex and ethnicity is also collected for the DMC report.
Update Brochures, Handouts, Forms	October – September	DCJ Monitor	Update information as needed.
Training and TA	October – September	DCJ Monitor	Provide training and TA as needed.

1.4 COMPLIANCE MONITORING AUTHORITY

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual and Audit Manual

Statement of Purpose:

The agency responsible for monitoring, DCJ, should have legal authority to monitor all facilities in which juveniles might be securely placed under public authority. The monitoring authority should be sufficiently broad to permit the monitoring agency to require each facility that could be classified as secure to be inspected for classification purposes, to maintain specific juvenile admission and release records and permit the designated compliance monitor to review these records at selected intervals during the year.

Policy:

1. The basic authority should give DCJ the right to develop and enforce, pursuant to state statutes, standards for all secure facilities that might hold juveniles, to inspect the facilities for compliance, to cite facilities for violations of the standards, and to enforce sanctions when violations are not corrected.
2. The DCJ compliance monitor should be permitted to review records containing detention information with the verbal agreement that the monitor will respect the confidential nature of the information and will not knowingly record or divulge information that might identify a specific child except as may be required to protect the child.
3. Effective monitoring and enforcement can only be fully implemented when the agency's legal responsibility is defined in clear terms and is known to all parties.

Procedures:

1. State statutes define the responsibility of agencies that may be holding juveniles securely with regard to the development and implementation of licensing requirements or other standards for operation. The DCJ compliance monitor will utilize existing statutorily defined requirements and standards by reporting and initiating compliance violations to both DCJ and the appropriate sanctioning agency.
2. House Bill 06-1112 gives DCJ statutory authority to collect data. CRS 24-33.5-503 Duties of (Division of Criminal Justice) Division: "(1) the division has the following duties: to inspect secure juvenile facilities and collect data on juveniles that are held in secure juvenile facilities, jails and lockups throughout the state."

3. In terms of violation authority, CRS 19-2-508(8)(b) states: “ A Sheriff or Police Chief who violates the provisions of paragraph (a) of this subsection (8) may be subject to a civil fine of not more than one thousand dollars.”
4. Legislation requires DCJ to develop standards for temporary holding facilities in the State of Colorado. C.R.S. 19-1-103(106) states that temporary holding facilities must be staff-secure, or non-secure, and that they must be sight and sound separated from any area that houses adult offenders. DCJ is responsible for issuing Temporary Holding standards. These temporary holding standards will be used during onsite inspections of temporary holding facilities by the DCJ compliance monitor. Temporary holding facilities are required to have written policies and procedures.
5. In addition to HB 06-1112, the Governor's Executive Order gives DCJ the responsibility for coordinating the jail removal objective, thereby giving DCJ the authority to inspect and review records when a juvenile is held securely.
6. The DCJ compliance monitor will at all times respect the confidentiality of juvenile names except as may be required to protect the child.
7. The DCJ compliance monitor will make available during all onsite inspections a copy of the Governor's Executive Order that defines the basis of authority for monitoring and a copy of HB 06-1112. A sample letter is attached to this policy in the event a facility is requesting verification from the DCJ Executive Director that compliance monitoring is a function of the OAJJA Unit. If a facility requires such a letter, the compliance monitor should request the letter be signed and should then submit it to the facility administrator.
8. The DCJ compliance monitor will report directly to the DCJ OAJJA Manager and the JJDP Council. The DCJ OAJJA Manager retains the accountability for the overall performance of the monitoring tasks

Attachments: DCJ introductory letter of monitoring authority - Sample

Appendix: DCJ Temporary Holding Standards
Governor's Executive Order
Senate Bill 94 Pretrial Detention Placement Criteria (subject to annual revisions)
ACA Standards: #72 Holding Facility, and #44 Juvenile Operations

SAMPLE LETTER OF INTRODUCTION

Date

The Division of Criminal Justice (DCJ), which has oversight authority for compliance with the Juvenile Justice and Delinquency Prevention Act of 2002, has delegated the monitoring of all agencies or facilities that may hold juveniles securely to the DCJ OAJJA compliance monitor.

The Governor of the state of Colorado through his designee annually accepts federal funds under the Juvenile Justice and Delinquency Prevention Act. The Division of Criminal Justice is designated by the Governor as the State Planning Agency to administer these funds. A condition for the receipt of these funds is to annually monitor compliance/ non-compliance with the JJDP Act.

The DCJ compliance monitor is authorized by DCJ and state statues (C.R.S. CRS 24-33.5-503) to perform the following tasks:

- Inspect facilities for compatibility with OJJDP guidelines on sight and sound separation of juveniles from adults and to determine if the DCJ classification of your facility is correct; and to
- Review juvenile records to collect data for inclusion in Colorado's annual monitoring report.

Confidentiality of the names of juveniles detained at the facilities being monitored will be maintained.

In addition, the OAJJA Unit is available to provide technical assistance for jail removal throughout the state. Please feel free to call for education on the Act, for community problem solving to realize jail removal, for facility review, recommendations, or other concerns.

Sincerely,

Director
Division of Criminal Justice

1.5 FEDERAL AND STATE DEFINITIONS OF TERMS

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Manual Colorado Children's Code

Statement of Purpose:

In classifying facilities and identifying the types of offense behavior of the juvenile to be counted for monitoring purposes, Colorado needs to operate under definitions that are compatible with those found in the Formula Grant Regulations.

Policy:

DCJ will adopt and follow federal OJJDP definitions when monitoring. These definitions will be used exclusively for compliance monitoring and when training or providing technical assistance.

Procedures:

1. When identifying and classifying the following federal definitions will be used, located in the respective section of the Formula Grant regulations: (December 1996)
 - A. Secure Custody (31.304(b))
 - B. Adult Jail (31.304(m))
 - C. Adult Lockup (31.304(n))
 - D. Facility (31.304)
 - E. Juvenile who is accused of having committed an offense (31.304(d))
 - F. Juvenile who has been adjudicated as having committed an offense (31.304(e))
 - G. Status offender (31.304(h))
 - H. Non-offender (31.304(i))
 - I. Valid court order (31.304(o))
 - J. Private (31.304(a))
 - K. Sight and Sound Separation (31.303 (d)(l)(l))
 - L. Non-secure custody (Federal Register dated 1988)
 - M. Court Holding (Federal Register dated 1988)
 - N. Collocated facility

2. The following definitions are contained in the JJDP Act.
 - A. Secure detention (103(12)(A)(B))

- B. Secure correctional facility (103(13)(A)(B))
- C. Public agency (103(11))
- D. Adult Inmate

3. The following definitions are contained in the OJP Guideline Manual:

- A. Delinquent, page 5

4. Others (Colorado specific)

- A. Adjudication/Adjudicatory
- B. Advisement
- C. Bench Warrant
- D. CCIC
- E. Contempt of Court
- F. Detention Hearing
- H. Juvenile
- I. Juvenile Offender
- J. Reasonable Cause Hearing
- K. Staff Secure Facility
- L. Temporary Holding
- M. Waived to Adult Court
- N. Status Offender

Colorado has created a “cross walk” contrasting and comparing federal definitions and state definitions as well as federal regulations/State laws which is contained in a separate document.

The definitions from the Formula Grant Regulations, the JJDP Act, and the OJJDP Compliance Monitoring Guideline Manual will take precedence and will be used for monitoring purposes.

Attachments: Definitions

Appendix: JJDP Act
1996 OJJDP Consolidated Regulation
OJJDP Compliance Monitoring Guidance Manual
Colorado Children's Code (this is located on the internet)

FORMULA GRANT REGULATION DEFINITIONS

Secure Custody - 31.304(b):

As used to define a detention or correctional facility this term includes residential facilities that include construction fixtures designed 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.

Facility - 31.304(c):

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

Adult Jail - 31.304(m):

A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

Adult Lockup - 31.304(n):

Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

Juvenile who is accused of having committed an offense - 31.304(d):

A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal type offender or a status offender and no final adjudication has been made by the juvenile court.

Juvenile who has been adjudicated as having committed an offense - 31.304(e):

A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal type offender or a status offender.

Status Offender - 31.304(h):

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. (Status offenses include truancy, violations of curfew, runaway, underage possession of alcohol or tobacco, underage alcohol offenses).

Non-Offender - 31.304(l):

A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

Valid Court Order - 31.304(o):

The term means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.

Private Agency - 31.304(a):

A private non-profit agency, organization or institution is:

- A. Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control.
- B. Any other agency, organization, or institution which operates primarily for scientific, education, service charitable or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax exempt under the provisions of section 501 (c)(3) of the 1954 Internal Revenue Code.

Sight and Sound Separation - 31.303 (d)(l)(l):

Secure custody status is when a juvenile offender is physically detained or confined in a locked room or area. Secure detention or confinement may result either from being placed in such a room or area and/or being physically secured to a cuffing rail or other stationary object. Separation must be accomplished architecturally or through policies and procedures in all secured areas. Sight contact is when a juvenile has clear visual contact with an incarcerated adult within close proximity. Sound contact is when a juvenile can have direct oral communication with an incarcerated adult. In accordance with OJJDP policy the state must assure that no juvenile offender shall enter, under public authority, for any amount of time, into a secure setting or secure section of any jail, lockup, or correctional facility as a disposition of an offense or as a means of modifying their behavior.

Non-Secure Custody:

The following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in a building that houses an adult jail or lockup facility: (1) the area(s) where the juvenile is held is an unlocked multi-purpose area, such as a lobby, office, or interrogation room which is not designated, set aside or used as a secure detention area or is not a part of such an area, or, if a secure area, is used only for processing purposes; (2) The juvenile is

not physically secured to a cuffing rail or other stationary object during the period of custody in the facility; (3) the use of the area(s) is limited to providing non-secure custody only long enough and for the purposes of identification, investigation, processing, release to parent, or arranging transfer to an appropriate juvenile facility or to court; (4) in no event can the area be designed or intended to be used for residential purposes; and (5) the juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

Court Holding:

A court holding facility is a secure facility, other than an adult jail or lockup, which is used to temporarily detain persons immediately before or after detention hearing, or other court proceedings. Court holding facilities, where they do not detail individuals overnight (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to a court appearance, are not considered adult jails or lockups for purposes of section 223 (a)(14) of the JJDP Act. However, such facilities remain subject to the section 223 (a)(13)(42 U.S.C. 5633 (a)(13)) separation requirement of the Act.

Collocated Facility - 31.303 (e)(3)(l)(c)(1)-(4):

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

A related complex of buildings is two or more buildings that share physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or the specialized services such as medical care, food service, laundry, maintenance, engineering services, etc.

- Separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and incarcerated adults. Separation can be achieved architecturally or through time phasing of common use nonresidential areas and;
- The facility must have separate juvenile and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility that provides a full range of separate program services. Juveniles and adult inmates may share no program activities. Time phasing of common use nonresidential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns; and
- If the state will use the same staff to serve both the adult and juvenile populations, there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles; and
- In states that have established standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and be licensed as appropriate. If there are no state standards or licensing requirements, OJJDP encourages states to establish administrative requirements that authorize the state to review the

facility's physical plant, staffing patterns, and programs in order to approve the collocated facility based on prevailing national juvenile detention standards.

JJDP ACT DEFINITIONS

Secure Detention Facility - 103 (12)(A)(B):

The term "secure detention facility" means any public or private residential facility which:

- A. Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.
- B. Is used for the temporary placement of any juvenile that is accused of having committed an offense, of any non-offender, or of any other individual accused of having committed a criminal offense.

Secure correctional facility - 103 (13)(A)(B):

The term "secure correctional facility" means any public or private residential facility which:

- A. Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.
- B. Is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any non-offender, or any other individual convicted of a criminal offense.

Public Agency - 103 (11):

The term "public agency" means any State, unit of local government, combination of such States or Units, or any department, agency or instrumentality of any of the foregoing.

Adult Inmate – 42 USC 5603 Sec 103(26)

An adult inmate is 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.

OJP GUIDELINE MANUAL

Delinquent - page 5:

A juvenile offender who has been charged with 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.

Reasonable Cause Hearing (In JJDP Act)

In the context of the VCO Exception, the reasonable cause hearing (also referred to as a probable cause hearing or preliminary hearing) is a court proceeding held by a judge to determine whether there is sufficient cause to believe that a juvenile status offender accused of violating a valid court order and to determine the appropriate placement of such juvenile pending disposition of the violation alleged. (42 U.S.C. 5633 Sec. 223(a)(23)(C)(ii)).

OTHERS (Colorado terms as contained in Colorado Revised Statutes)

- CRS 19-1-103 (3) Adjudication/Adjudicatory hearing: The judicial hearing wherein guilt or innocence is determined either by the child's admission or by trial to a court or jury.
- CRS 19-1-103 (8) (a) Adult: Means a person eighteen years of age or older, except that any person eighteen years of age or older who is under the continuing jurisdiction of the court, who is before the court for an alleged delinquent act committed prior to the person's 18th birthday, or concerning whom a petition has been filed for the person's adoption other than under this title shall be referred to as a juvenile.
- CRS 19-1-103 (18) Child: Means a person under eighteen years of age. (68) Juvenile
- CRS 19-1-103 (36) Delinquent act: As used in article 2 of this Title, means a violation of any statute, ordinance, or order enumerated in section 19-2-104(1) (a). If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense shall be determined by the statute, ordinance or order that the petition alleges was violated.
- CRS 19-1-103 (40) Detention: Means the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.
- CRS 19-1-103 (106) Temporary holding facility: Means a area used for the temporary holding of a child from the time the child is taken into custody until a detention hearing is held, if it has been determined that the child requires a staff-secure or physically secure setting. Such an area must be sight and sound separated from any area that houses adult offenders.
- CRS 19-1-103 (109) Training school: Means an institution providing care, education, treatment, and rehabilitation for juveniles in a closed setting and includes a regional center established in part 3 of article 10.5 in title 27.

CRS 19-1-103(103.7) Status offense shall have the same meaning as defined in federal law in 28 CFR 31.304, as amended.

Advisement

A court procedure formally advising the accused of certain statutory and constitutional rights. The advisement is delivered during the first appearance in court.

Bench Warrant

Process issued by the court itself, "from the bench", for the apprehension or arrest of a person.

CCIC

Colorado Crime Information Center.

Contempt of Court

The punishable act of showing disrespect for the authority or dignity of the court.

Detention Hearing

A hearing held within 48 hours, excluding weekends and holidays, after the juvenile is taken into temporary custody to determine whether continued detention is necessary.

Juvenile Offender

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

Staff Secure Facility

A staff secure facility may be defined as a residential facility (1) which does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein; (2) which may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

Temporary Holding

An area used for the temporary holding used for the temporary holding of a child from the time they are taken into custody until a detention hearing has been held, if it has been determined that the child requires a staff-secure. The area must be sight and sound separated from adults and constantly monitored.

Waived to Adult Court

The formal process to transfer or direct file a juvenile case into adult court for trial.

2.0 OVERVIEW OF THE COMPLIANCE MONITORING ELEMENTS & TASKS

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual Colorado Children's Code

Statement of Purpose:

The JJDP Act states in section 223(15) that states must provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to ensure that the core protections of paragraph (A)(11)(a), D.S.O.; paragraph (12), sight and sound separation; and paragraph (13), jail removal; are met, and for annual reporting of the results for such monitoring to the OJJDP Administrator.

Policy:

The four major annual monitoring tasks are as follows:

1. Identification for the Monitoring Universe (see Policy 2.1)
2. Classification of the Monitoring Universe (see Policy 2.2)
3. Inspection of facilities (see Policy 2.3)
4. Data Collection and Verification (see Policy 2.4)

Each of these four annual tasks will be addressed in subsequent policies. In addition, the following remaining elements of an adequate compliance monitoring system have been addressed in previous policies:

5. Policies and Procedures (as contained in these pages)
6. Barriers and Strategies (see Policy 1.1)
7. Violation Procedures (see Policy 1.2)
8. Monitoring Timetable (see Policy 1.3)
9. Monitoring Authority (see Policy 1.4)
10. Definition of Terms (see Policy 1.5)

Procedures:

To complete the four monitoring task requirements and the three additional tasks please refer to the policies that follow.

2.1 IDENTIFICATION OF THE MONITORING UNIVERSE

Date Issued: July 1991

Last Review: 2016

Related OJJDP Regulations: JJDP Act
1996 OJJDP Consolidated Regulation
OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

OJJDP requires States (Formula Grant recipients) participating in the JJDP Act, as amended, to establish and maintain an adequate monitoring plan and system for purposes of monitoring compliance with the Act and for OJJDP audits. There are four annual tasks in a compliance monitoring system: identification of the monitoring universe, classification of facilities in the monitoring universe, inspection of facilities and data collection/data verification. OJJDP requires that each task is completed annually. This policy addresses the annual identification of the monitoring universe.

Policy:

The DCJ compliance monitor will maintain a filing cabinet containing Compliance Monitoring Universe information that will contain listings of all facilities in the state that might hold juveniles pursuant to public authority. The filing cabinet will be located in the DCJ compliance monitor's office. Public Authority = Law enforcement, courts or other agencies operating as an arm of the court.

The DCJ compliance monitor will annually update this information. The update will occur by interviewing agency contacts and obtaining information from the Internet on the agencies contained in the Procedure section of this policy.

As defined in the Federal Register, May 31, 1995, page 28445, the identification of the monitoring universe refers to: "The identification of all residential facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned or operated by public or private agencies."

As defined in the OJP Guideline Manual, page 2, states: "This refers to the identification of all facilities which might hold juveniles pursuant to public authority.... This list should include all jails, lockups, detention centers, juvenile correctional facilities, halfway houses, group homes, the number of foster homes, and any other secure or non-secure public and private facilities in which juveniles might be detained or placed. Depending on the scope of the jurisdiction and authority of the juvenile court, the list may need to include public or private mental health facilities, chemical dependency programs, and detoxification centers."

Monitoring Universe Contact Information

Agency	Responsible For:	Contact	Address	Phone	E-Mail
DEPARTMENT OF HUMAN SERVICES Division of Child Welfare	Group center care homes, group home case, psychiatric residential treatment centers, RCCF's, summer camps, Therapeutic Residential Child Care facilities, day care centers, foster homes, homeless youth shelter facilities.	Laurie B. Burney, MSW Licensing and Monitoring Supervisor/ Residential and CPA Services Program Supervisor Placement Services Unit	1575 Sherman Street 4 th Floor Denver 80203	P 303.866.3257	Laurie.burney@state.co.us
Division of Child Welfare	24-Hour Monitoring Unit. He is called if there are complaints or allegations of abuse. Call him yearly to see if any facility did not abide by their non-secure licensing agreement.	Dennis Desparrois	1575 Sherman Street Denver 80203	303/866-7425	Dennis.desparrois@state.co.us
Division of Youth Corrections	Secure juvenile detention and correctional facilities statewide with the exception of those that are locally run or run by a for profit agency. They typically contract with those.	Cindy Owen Quality Assurance/Audits	4255 South Knox Court Denver 80236	303/866-7063	Cindy.owens@state.co.us
Division of Mental Health	Oversees 27-65 facilities; secure and non-secure.	Pam Neu	3824 W. Princeton Circle Denver 80236	303/866-7416	Pam.neu@state.co.us
Alcohol and Drug Abuse Division	Detox facilities and any other chemical dependency programs.	Katie Wells	4055 S. Lowell Blvd. Denver 80236	303/866-7501	katie.wells@state.co.us
COUNTY SHERIFFS OF COLORADO Jails/Court Holding	The County Sheriffs are not responsible for jails. No one in the state is. Updating the list of jails and court holding facilities is based on the previous year on-site visits.	Chris Johnson Executive Director	9008 N. US Hwy 85, Unit C Littleton 80125-9915	720/344-2262	www.csoc.org
COLORADO ASSOCIATION OF CHIEFS Lockups/Court Holding	The Chiefs Assn. Is not responsible for lockups or PD's, in fact not all PD's are members. Updating the list of PD's and court holding facilities is based on the previous year visits.	Karen Renshaw	2701 Alcott, Suite 386 Denver 80211	303/480-1247	
DEPARTMENT OF PUBLIC HEALTH	Public and private medical hospitals.	Jane Norton	4300 Cherry Creek Drive South Denver 80246	303/692-2035	jane.norton@state.co.us

Agency	Responsible For:	Contact	Address	Phone	E-Mail
DEPARTMENT OF CORRECTIONS Adult Public and Private Correctional Facilities	Adult correctional facilities. The list of facilities is updated annually on the website.	La Cole Archuleta	2862 South Circle Drive Colorado Springs 80906	719/226-4778	Lacole.archuleta@doc.state.co.us
Youthful Offender System	Part of adult DOC, one secure facility is located in Pueblo.	Jeaneene Miller	12157 West Cedar Dr. Lakewood 80228	303/763-2424	jeaneene.miller@doc.state.co.us
COLORADO STATE PATROL	CSP is organized into regions, districts and troops. There are 6 districts. Within those 6 districts there are offices or troop headquarters. They are updated on the internet annually. Sgt. Fisher is based at headquarters and is in charge of their policies that state juveniles may never be held securely.	Brady Kobus	700 Kipling Denver 80215	303/273-1664	Brady.kobus@state.co.us
INDIAN RESERVATIONS Two Indian Reservations in Colorado, both are reporting and are included under Jails and Lockups	Southern Ute tribe has one secure holding cell off the patrol work area. Ute Mountain Ute has a collocated facility: Chief Ignacio Justice Center.	Located in the Facility File			
FEDERAL FACILITIES (Per federal regulations, States are not required to monitor these facilities)					
Immigration and Naturalization at DIA		Latish Martinez		303/342-7440	
US Customs at DIA		Karen Donald Super.		303/342-7400 (press 0 then extension 112)	
Military Bases	Information unknown at this time.				
OTHER FACILITIES					
Airport Association	There are two secure facilities (Colorado Springs and Denver) and they are included under Jails and Lockups as substations. Also contact: Alan Wiechmann, FAA District Office, 26805 East 68 th Avenue, Suite 224, Denver 80249. Phone 303/342-1252.				
Mall Association	There are secure facilities located within malls or shopping centers that are operated by the local police department and these are included in the monitoring universe as police substations.				

Agency	Responsible For:	Contact	Address	Phone	E-Mail
Schools Colorado Department of Labor - Public Safety Division (regulates fire safety and security in schools)	Per state licensing rules schools may not have any secure room or fixture or they will not be licensed yearly per state fire regulations.				
SPORTING VENUES: Sporting venues are located in Denver and Colorado Springs. If operated or manned by a police department they are listed as a substation for that police department.					
Temporary Holding Facilities	Temporary holding facilities are usually operated by Sheriff's Departments and are listed under individual counties. All temporary holding facilities in Colorado are approved and licensed by DCJ, have written policies and procedures and must be non-secure.				
Assessment Centers	Assessment centers are part of juvenile justice system and are included under individual counties. If secure they are classified as adult jails (Arapahoe). All others are non-secure and are noted under the county on the Master Facility list.				

Procedures:

1. In October of each year the compliance monitor will to query department administrators or contacts requesting OJJDP identification information.
2. The query will request identification information on their: current facilities, planned facilities, and contracts they have with private facilities. Additionally, information will be collected on their standards, licensing and inspection procedures. The information collected will be kept in the filing cabinet dedicated to the monitoring universe.
3. All facility information gathered will be included in updating the Monitoring Universe filing cabinet. It will be organized as follows: Each type of facility will have a separate section. For example, all information pertaining to facilities owned, operated or contracted by the Division of Youth Corrections will have a separate section. Contained within that section are the following sections:
 - A. The Monitoring Universe Survey
 - B. The list of facilities with contact name, address, phone and e-mail address
 - C. The Standards for licensing or regulations that the oversight agency uses when they license these facilities.
 - D. The licensing and violation procedures.
4. The information contained within the Monitoring Universe filing cabinet will be available during each OJJDP compliance monitoring audit.
5. The identification of the monitoring universe is an on-going process. During onsite visits to each facility the compliance monitor should ask questions during the interview with the administrator or contact regarding new construction, remodeling of current facilities, and proposed construction. In addition, when monitoring a Sheriff's Department the compliance monitor should ascertain what police departments are currently operational within the county. If a police department or other facility has recently become operational, or is being proposed in the county, it is placed on the list of facilities within the respective section of the filing cabinet and is subject to the classification, inspection, and data collection/data verification tasks. Since one department may have several substations, each agency should be asked about operational substations.

IDENTIFICATION OF THE MONITORING UNIVERSE SURVEY

Contact Name:

Contact's Agency and Address:

Contact's Phone, Fax, E -Mail:

Oversight Authority For:

Overview of Purpose of Facilities:

Population Served:

Facilities Available:

Licensing Procedures and Standards:

Inspection Process:

Are Violations of the JJDP Act Possible:

Violation Procedures:

Other Information:

2.2 CLASSIFICATION OF THE MONITORING UNIVERSE

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJP Compliance Monitoring Guidance Manual

Statement of Purpose:

OJJDP requires that States, (Formula Grant recipients) participating in the JJDP Act establish and maintain an adequate monitoring system and plan for purposes of compliance with the Act and for OJJDP compliance monitoring audits. There are four annual tasks in a compliance monitoring system: identification of the monitoring universe, classification of facilities in the monitoring universe, inspection of facilities and data collection/data verification. OJJDP requires that each task is completed annually. This policy relates to the annual classification process of the monitoring universe.

Policy:

The compliance monitor will annually classify and/or reclassify, all facilities listed in the Monitoring Universe filing cabinet.

As defined in the Federal Register, June 20, 1985, page 25558, "This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, an adult correctional facility, an adult correctional institution, jail, lockup, or other type of secure or non-secure facility."

The OJP Guideline Manual, page 3, states: "The classification of all facilities to determine which should be considered secure detention or correctional facilities, adult correctional institutions, jails, lockups, or other types of secure facilities and thus should be monitored, requires an assessment of each facility based on the OJJDP regulations. Generally all jails, lockups, juvenile detention centers, training schools and other public and private facilities should be subject to classification."

For purposes of this Policy, and per federal requirements, there will be three categories for classification of each facility:

1. Public or Private (owned by State, local agency or owned by a private non or for profit agency)
2. Is it a juvenile facility (used exclusively for juveniles), adult facility (used exclusively for adults), or a facility used for both juveniles and adults.
3. Secure or Non-Secure
4. Residential or Non-Residential

Please refer to the Definitions of Federal terms policy for definitions of the additional following terms that may be needed for classification purposes:

1. Secure
2. Facility
3. Adult jail
4. Adult lockup
5. Secure detention facility
6. Secure correctional facility
7. Private and Public agency
8. Collocated facility
9. Temporary holding facility
10. Court Holding facility
11. Staff Secure Facility

For purposes of this policy and for classification purposes only OJJDP definitions will be used.

Procedures:

1. All facilities listed in the Monitoring Universe filing cabinet must be classified pursuant to the above definitions (secure or non-secure; public or private; adult, juvenile or used for both).
2. Based up the classification, the list of facilities requiring an onsite inspection during the monitoring year will be generated.
3. The classification of current facilities will/or may have occurred during the previous monitoring year. For example, while conducting an onsite visit to a Sheriff's Department the compliance monitor may learn of a new court holding facility that was recently constructed. That is added to the list of Court Holding facilities in the filing cabinet and a new Facility File is created. This facility is subject to classification and inspection. Or, the compliance monitor may learn of a closed police department that has just become operational during the previous year. Again, the police department is subject to classification and inspection.
4. The classification of facilities is not a one-time occurrence at a specified time during the course of the year. Rather, it is an on-going process. The classification is verified through on-site inspections. Classification is a required yearly process as outlined in the OJJDP Guidance Manual.
5. The compliance monitor will annually review state standards and new legislation, judicial practices and administrative rules for classification purposes.
6. When an existing facility is re-classified it is noted in the Facility File and in the universe files. This information is used to update the Net Motion Compliance List. Using this method, it is an easy task to update the information annually.
7. The compliance monitor will annually classify all county jails, court holding facilities, secure lockups, and juvenile detention facilities as public, secure facilities that may be used for the incarceration of juveniles and/or adults. The compliance monitor is required

to visit them at least once every three years. Data collection/data verification is required annually at these facilities.

8. Lockups classified as non-secure will be queried annually to determine if they are still non-secure. OJJDP requirements are to visit this type of facility a minimum of once every ten years. Colorado's policy is that they be visited once every three years. It will be the responsibility of the compliance monitor to maintain records of on-site visits to determine which non-secure lockups are visited each year. Court holding facilities will be visited when the compliance monitor conducts inspections at their respective city or county. A Non-Secure Certification form will be completed on-site and placed in the facility file at all non-secure police departments. This will provide written verification that the facility is non-secure and therefore is holding 0 juveniles a year.
9. The classification of facilities, when completed, is placed in the beginning of each agency section in the Monitoring Universe filing cabinet. The classification chart describes if it is public or private, secure or non-secure, juvenile, adult or both. Based on the classification chart, the compliance monitor will be ready to compile their list of facilities requiring an annual inspection.
10. Collocated facilities must be inspected annually per OJJDP regulations, Temporary Holding facilities are inspected every three years per DCJ policy.
11. State statutes regulating admissions to adult correctional facilities and juvenile correctional facilities should also be contained in the Monitoring Universe filing cabinet.

Attachments: Classification Master List

2.3 INSPECTION OF FACILITIES

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJP Compliance Monitoring Guidance Manual

Statement of Purpose:

Inspection of facilities is required to classify according to federal regulations and to review whether adequate sight and sound separation occurs for juveniles housed in facilities that also confine adult offenders. Such inspections are necessary to ensure the Act requirements are followed and to determine whether adequate data are maintained to determine compliance with the three statutory core requirements. The inspection process should include a method of reporting compliance with the separation core requirement for each secure facility. Reports on each facility's compliance or non-compliance will be made available to the facility as a record of findings of the inspection.

Each facility will have an individual file, located at the compliance monitor's office called a Facility File that will contain:

1. Facility Information Form
2. A Summary of Juveniles Held by Month based on information from the Juvenile Holding Cell Logs (number of juveniles held, race/ethnicity, sex, violations)
3. Correspondence with the facility
4. Sight and Sound Separation Checklist
5. Non-Secure Certification Form (if applicable)
6. Copies of Compliance Violation Forms sent to the facility
7. Copy of the facility layout indicating areas where juveniles are held securely and non-securely
8. A copy of the log they are using or a summary of their record keeping status
9. A copy of all the On-Site Summary forms

It is important that all facility administrators or contacts be provided with all applicable information on compliance with the JJDP Act and related regulations.

During each on-site inspection, the compliance monitor will make available Colorado's Guide: Holding of Juveniles that contains, at a minimum:

1. The OJJDP 1996 Consolidated Federal Register
2. An overview of the JJDP Act and purpose of the core requirements
3. The federal definition of terms that the compliance monitor uses exclusively
4. Sample Law Enforcement Custody Policy and Procedure
5. An explanation of the core requirements and how they relate to different types of facilities. This explanation should include what constitutes a violation at adult jails and lockups, court holding facilities and juvenile detention centers.

6. An explanation of secure and non-secure custody and how the requirements relate to each type of facility.
7. A sample Juvenile Holding Cell Log
8. The State and local consequences of non-compliance with the JJDP Act
9. Information on Temporary Holding Policies and Collocated Policies
10. References to the Children's Code as appropriate
11. Information on the federal Valid Court Order

In addition, the compliance monitor represents the designated state agency (DSA), and as such, should have available during on-site visits information regarding funding opportunities through the DSA or other resources, information from other DCJ units that is pertinent, and other information that the DCJ OAJJA Manager deems appropriate. This not only provides the facility administrator or contact with valuable information but also serves to develop and maintain the very important working relationships between the facility and compliance monitor.

Process:

The compliance monitor will annually inspect facilities to ensure an accurate assessment of each facility's classification and record keeping. The inspection will include:

1. A review of the physical accommodations to determine whether it is a secure or non-secure facility.
2. A "walk-through" of the facility as if the compliance monitor was a juveniles to determine the level of sight and sound separation between juveniles and incarcerated adults.
3. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with 223 (a) (11), (12), (13), and (23).
4. An exit interview with the facility administrator or contact to share onsite findings and concerns, to discuss methods to realize compliance if issues are present, to provide DCJ materials, and to discuss concerns the facility administrator or contact has.

The following guidelines will be used in determining which facilities will receive an onsite inspection:

The basic requirement per OJJDP regulations is that states' should have in place a statistically sound method of inspecting 10% of the facilities annually. However, data on all juveniles held securely must be collected from 100% of the facilities. It is Colorado's policy that 33% of all secure facilities that hold juveniles be inspected annually.

The following chart should be used as guidance as to how often Colorado facilities should be monitored and what they are monitored for.

Type of Facility Colorado Definition	Type of Facility Federal Definition	Inspection Rates
Prisons Department of Corrections (DOC)	Adult Correctional Facilities	They are classified as secure. Public or private. Adult only facilities. (In Colorado, per statute, only direct file juveniles may be sentenced to adult correctional facilities). State law and Judicial Rules prohibit the sentencing of any juvenile not filed on as an adult, and are enforced through DOC admission practices. Separation requirements prohibiting any type of Scared Straight or Shape Up or other visitation program confirmed by discussing this issue with DOC Management every year. Spot check.
Juvenile Correctional Facilities	Juvenile Correctional Facilities or Juvenile Training Schools	They are classified as secure. Public or private. Juvenile only. Inspected for DSO and separation, at least 10% annually, but 100% within three years. One issue is juveniles in these facilities that have turned 18 and then commit an adult offense (contraband, assault) as they may be separation violations. (OJJDP has not provided specific guidance on this circumstance).
Juvenile Detention Centers	Juvenile Detention Centers	They are classified as secure. Public or private. Juvenile only. Inspected for DSO and separation, at least 10% annually, but 100% within three years. One issue is juveniles in these facilities that have turned 18 and then commit an adult offense (contraband, assault) as they are separation violations. (OJJDP has not provided specific guidance on this circumstance).
Psychiatric Hospitals with secure units	Mental Health Facilities	They are classified as secure. Public or private. Juveniles and adults. In Colorado admission is only through civil commitment process (27-65 statute) or voluntary admission. Also addressed in later policy. Spot check.
Jails and Lockups	Adult Jails Adult Lockups	They are classified as secure or non-secure. Public or private. All are for juveniles and adults. Secure facilities inspected at a desired rate of 33% annually but 100% within three years. Non-secure facilities inspected at a desired rate of 33% annually to determine if they are still non-secure. Or, at least 10% annually, but 100% within three years. Records are maintained by the compliance monitor in the Net Motion database to determine which facilities should receive inspections each year.
Temporary Holding Facilities	Non-Secure Facilities	These are "Colorado" type facilities; all are non-secure per state law and DCJ regulation. Inspect every three years.
Group Homes Foster Homes Shelter Cares	Non-Secure Facilities	They are classified as non-secure because of Colorado Regulations that are contained in the filing cabinet. They are public or private. Juveniles only.

Type of Facility Colorado Definition	Type of Facility Federal Definition	Inspection Rates
		Colorado inspects these facilities annually to ensure they are meeting licensing requirements. The licensing requirements are in the filing cabinet. Spot check.
Secured Residential Treatment Centers	Juvenile Detention or Correctional Facility	There are three secure private JCF's that contract with DYC: Betty Marler, De Nier, San Luis Valley Youth Services Centers. SRTC's are DHHS placement options and are classified as secure, public or private, juveniles only. Classification will determine inspection rate. These facilities are licensed and inspected annually by the Division of Health and Human Services, DCJ inspects once every three years.
Residential Treatment Centers Residential Child Care Facilities	Non-Secure Facilities Non-Secure Facilities	Classified as non-secure per licensing regulations, public or private, and juvenile only. Licensing rules are in filing cabinet along with CDHS's inspection and violation procedures. They are spot-checked with a DHHS representative.
Detox or other alcohol facilities	Non-Secure Facilities	Classified as non-secure per ADAD licensing regulations and violation procedures, public or private, juvenile and adults. Licensing rules and violation procedures are in filing cabinet. They are spot-checked with an ADAD representative.
Regional Shopping Malls That are staffed by law enforcement (public authority)	Adult lockups if secure and operated by public authority. Non-Secure Facilities if operated by private authority.	Annually information from law enforcement is obtained regarding off duty officers working in malls or substations located in malls. If there are law enforcement offices in malls they are classified as substations and are subject to the same inspection rate as jails and lockups. If operated by a private security firm they are outside the purview of Colorado's monitoring efforts.
Airports That are staffed by law enforcement (public authority)	Adult lockups if secure and operated by public authority. Non-Secure Facilities if operated by private authority.	Annually information from law enforcement is obtained regarding substations located in airports. For those operated or staffed by law enforcement, inspect at a minimum of 10% annually and 100% every three years. If operated by law enforcement they are included on the monitoring universe list as a substation.
Sporting Complexes	Adult lockups if secure and operated by public authority. Non-Secure	Annually information from law enforcement is obtained regarding substations located in sporting complexes. For those that are secure, inspect a minimum of 10% annually and 100% every three years.

Type of Facility Colorado Definition	Type of Facility Federal Definition	Inspection Rates
	Facilities if operated by private authority.	If operated by law enforcement they are included on the monitoring universe as a substation.
Schools	Non-Secure Facilities	All are non-secure due to Colorado fire codes and Certificates of occupancy rules. Colorado Fire Officials inspect them yearly.
Federal Facilities	Federal Facilities	Not subject to state inspection for purposes of the Act.
Any other type of facility identified through the Identification Process		If secure and operated by public authority, subject to annual inspection rates and data collection/verification. If non-secure, subject to classification to determine rate of inspection.

Procedures:

1. The compliance monitor, at least 10 days prior to an on-site inspection, will notify the facility administrator or contact of the date and time of inspection. If the date and time is inconvenient, another time will be scheduled.
 - A. The compliance monitor will be responsible for maintaining records of when facilities were visited in the Net Motion database.

2. At all inspections a Facility Information Form will be completed or updated and will be retained in the individual Facility File (see attachment).
 - A. The compliance monitor will determine how records are kept at the facility on juveniles held securely and verify that the records are accurate. OJJDP requires data verification that is unique to each facility; however, the compliance monitor is always able to verify data by reviewing a juvenile's arrest jacket or custody sheet. A thorough record keeping review will be conducted to ensure all facilities keep records consistent with OJJDP Rules and Regulations and should, at a minimum, include:
 1. Name or ID number (in order to review a file if needed to verify compliance)
 2. Date of Birth/Sex/Race/Ethnicity (to determine age and for Disproportionate Minority Contact reports)
 3. Most serious offense juvenile is being detained on (to determine compliance with DSO in the event a juvenile was picked up, for example, on both runaway and shoplifting charges).
 4. Date and time of admission (to determine compliance with Jail Removal)
 5. Date and time of release (to determine compliance with Jail Removal)
 6. Name and relationship of person or facility to whom juvenile was released
 7. Court times if applicable (to determine compliance with Jail Removal)

8. Sight and sound separation information. (Need to compare admission records for juveniles and adults to determine if times overlap)
3. At all inspections of facilities a Sight and Sound Separation Inspection checklist will be completed, see attached form, to be retained in the Facility File. Separation questions will be asked at all types of facilities, including those that only hold juveniles. For example, a juvenile detention center may be located near an adult jail. Inmates may be asked to perform grounds work at the juvenile detention center in which case sight and sound separation would be an issue. The compliance monitor should obtain policies and procedures on how the facility ensures sight and sound separation. The types of questions most helpful in determining separation include:
 - A. Where are adults, at all times in all areas, when juveniles are in the facility?
 - B. Are adult trustees used in the facility and if so for what (if so there is a separation issue);
 - C. Does an officer remain with the juvenile at all times?
 - D. What areas are dedicated for juvenile use?
 - E. How is the juvenile brought into the facility and how are they processed through the facility;
 - F. Is time phasing used (using the same area for juveniles and adults, just not at the same time);
 - G. Are policies in place to prohibit contact (obtain copies of all juvenile policies);
 - H. Are support services provided and is separation guaranteed in recreation, education, counseling, medical and dental aid?
 - I. How are special population needs served? (Suicidal youth, under influence)

Note the different separation levels on the Sight and Sound Separation Checklist. Note secure areas and non-secure areas that are used for juveniles. Obtain a facility layout. Examine and become familiar with conditions of confinement, provide ideas or resource people to address those concerns.

4. The compliance monitor will provide technical assistance to those facilities not in compliance with record keeping and/or with sight and separation requirements. Facilities should be told that the compliance monitor is available to review proposed facility plans prior to construction to ensure that sight and sound will be complied with.
 - A. In cases where there is non-cooperation in aligning their systems to OJJDP requirements, it will be brought to the prompt attention of the DCJ OAJJA Manager by the compliance monitor in written form for further action.
5. All facilities subject to inspections will also be subject to data collection and data verification if juveniles are being held securely.
6. All adult jails and lockups that do not have secure holding capabilities and are not detaining juveniles securely will be classified as non-secure. The Law Enforcement Certification of Non-Secure Classification form will be completed (see attachment) and retained in the Facility File. A copy will be provided to the facility. These facilities should receive an inspection at least once every three years to ensure that they are still non-secure. The compliance monitor is responsible for maintaining records on which facilities were monitored during the compliance-monitoring year. In addition, these non-secure

facilities are required to fill out, sign and return to DCJ a Non-Secure Certification Form annually.

Attachments: Facility Information Form
 Sight and Sound Inspection Checklist
 Monthly Compliance Monitor's Log of Juveniles Held, Violations,
 Race/Ethnicity and Sex
 Law Enforcement Certification of Non-Secure Classification form
 On-Site Summary Form

FACILITY INFORMATION FORM - COMPLIANCE MONITORING SURVEY FOR FACILITIES
(Complete New Form if ANY of the Items Below Change)

FACILITY INFORMATION

On-Site Visit Dates: _____; _____; _____; _____; Judicial District: _____ County: _____ Monitor: _____
Name of Facility: _____

Mailing Address: _____

Physical Address and Directions: _____

Name of Sheriff, Chief or Administrator: _____

Contact Name: _____

Contact Phone: _____ Contact Fax: _____ Contact E-Mail: _____

CLASSIFICATION INFORMATION

Type of Facility: (Circle One)

- Sheriff Police Juvenile Detention Center Court Holding Temp Holding Collocated Airport Other .

Classification: (Check One)

- Secure, holds juveniles in cell, locked room or cuffed to stationary object - describe the stationary object in narrative
- Secure, but does not usually securely hold juveniles but would in extreme circumstances - describe in narrative
- Secure, but NEVER holds juveniles per either formal or informal policies and procedures - describe in narrative
- Non-Secure, no cells, locked rooms, cuffing rings/benches, but no formal P/P to not hold. Complete NS Certification.
- Non-Secure with formal Policies and Procedures - Obtain copy and complete NS Certification Form.
- Other? (Use another jail/lockup or have temporary holding to detain juveniles?) Describe: _____

SIGHT AND SOUND INFORMATION (Use separate form)

RECORDS INFORMATION (if juveniles are held securely, their records must contain the following)

- Name or ID number DOB or age Gender Race/Ethnicity Most Serious Charge/Offense Date/Time of Admission . Date/Time of Release Release Placement Time to/returned from court (if applicable)

MONITORING CHECKLIST

- Obtain Facility Layout Showing Locations for Secure and Non-Secure Holding Obtain Policies and Procedures
- Obtain Records Sample Give Contact a Manual Other Information Provided (list)

INTERVIEW INFORMATION (If more space needed, use back of form. If other compliance issues arise, document)

Who is collecting juvenile holding cell logs?: _____

Location of Secure Areas: _____

Location of Non-Secure Areas: _____

Where are delinquents held? _____

Where are status and non-offenders held? _____

Where are returns for Court held? _____ Is there a separate Court Holding? If so, location? _____

Who does intake screening? _____

What jail removal programs are available and who provides? _____

Is temporary holding available, if so where, and under what conditions? _____

Juvenile Detention Center catchment area: _____ Are direct-file juveniles held in this facility? _____

Their Needs: _____

Other P.D.'s in County? (List secure and non-secure) _____

Any DCJ Grants? _____

Other information? New correctional facilities being planned for this area? (Use back of form) _____

SB 94 Juvenile Services Planning Committee (are they involved): _____

JAG (are they funded, if so for what?): _____

Sight and Sound Separation Inspection Checklist

(Provide a Copy to Facility Contact)

Name of Facility: _____ Date of Inspection: _____

Mailing Address: _____

Contact Name: _____ Phone: _____ Fax: _____

What type of facility is it? (Adult Jail or Lockup, Court Holding, JDC, etc.) _____

*Use the following codes to describe the level of separation.
Walk through facility as if you were a juvenile being processed and detained.
Obtain a facility layout for future reference.*

1. Adult inmates and juveniles can have physical, visual and aural contact with each other (NO SEPARATION)
2. Adult inmates and juvenile's can not have physical contact with each other, but they can see or hear each other (PHYSICAL SEPARATION)
3. Conversation possible between adult inmates and juveniles although they cannot see each other or have physical contact with each other (SIGHT SEPARATION)
4. Adult inmates can see each other but no conversation is possible and they cannot have physical contact with each other (SOUND SEPARATION)
5. Adult inmates and juveniles within the same facility can not see each other, can not have physical contact with each other and no conversation is possible (SIGHT AND SOUND SEPARATION)
6. Adult inmates and juveniles are not placed in the same facility (ENVIRONMENTAL SEPARATION)
7. Juveniles are not held securely in the facility (DO NOT HOLD)

Facility Area	Level of Separation (From codes above)	Narrative (Describe why you have coded it as such)
Sally Port		
Booking or Admission		
Housing		
Hallways		
Transportation		
If Applicable Code these areas:		
Dining		
Recreation		
Vocation/Work		
Medical/Dental		
Segregation		

Does the facility utilize adult trustees for any juvenile services? (Example, serving meals) Yes _____ No _____

Does the facility participate in any Shape Up or Scared Straight program? Yes _____ No _____
(If so, this might change the level of separation, explore more fully with contact)

Sight and Sound Inspection Checklist (Revised March 2010)

MONTHLY SUMMARY OF JUVENILES HELD

Facility _____ Monitoring Year _____

	On-Site Visit Date	# Held	Accused Status Offenders	Adjudicated Status Offenders	Acc. Del. > 6 hrs.	Adj. Del.	Sight and Sound V.	Handgun Charge	Sex			Race/Ethnicity						
									Male	Female	White	Black	Hispanic	Asian	Pac. Island	NA	Other	
October																		
November																		
December																		
January																		
February																		
March																		
April																		
May																		
June																		
July																		
August																		
September																		
TOTAL																		

VIOLATIONS:

Name	Age	Sex	Race	Offense	Date and Time IN	Date and Time OUT	Reason for Violation	CVF Sent?	Response

**Colorado Department of Public Safety
Division of Criminal Justice / Office of Juvenile Justice
Juvenile Justice and Delinquency Prevention Act
Compliance Monitoring On-Site Summary Results**

Name of Agency: _____ On-Site Visit Date: _____

Agency Address: _____

Agency Contact Person: _____ Contact Phone: _____

Contact E-Mail Address: _____

ON-SITE SUMMARY RESULTS

Classification:

- | | |
|-----------------------------|---|
| 9 Adult Jail | 9 Court Holding Facility |
| 9 Adult Lockup | 9 Non-Secure Temporary Holding Facility |
| 9 Juvenile Detention Center | 9 Other: _____ |

Sight and Sound Separation Levels:

Secure Area	Separation Level	Comments
Booking/Admission		
Housing		
Hallways		
Do Trustees or other Adult Inmates have access to/or are allowed into the juvenile area: 9 Yes 9 No		
Do juveniles enter the jail as part of a Shape Up or similar program? 9 Yes 9 No		

Location of Secure and Non-Secure Areas:

Area	Security Level	To Be Used for the Following Types of Juveniles
	Secure	
	Non-Secure	

Record Keeping: 9 Very Good 9 Suggest New System _____

9 Suggest Revisions _____

Violations:

Monitoring Year	Violation	Comments

My sincere thanks for your time during my on-site visit. Please direct questions or comments to Susan Davis, DCJ Compliance Monitor, at 970/493-7932 (phone and fax), or to susan.davis@state.co.us

Susan Davis

Date

2.4 DATA COLLECTION AND VERIFICATION

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJP Compliance Monitoring Guidance Manual

Statement of Purpose:

It is necessary to check each facility's admission and release records to obtain accurate information to determine compliance with sections 223 (11), (12), and (13) of the JJDP Act. On-site data collection can be easily verified and increases the accuracy of the data. For continuity and clarification, the DCJ compliance monitor will note on the Facility Information Form how the data is being collected at the agency.

Policy:

The compliance monitor will be responsible for collecting and verifying data on every youth held in those facilities subject to inspections following OJJDP rules and regulations on data collection. Data on all juveniles held securely will be obtained within three months of the close of the monitoring year. The monitoring year, October 1 through September 30 will be used for each annual monitoring cycle. The following data sets will be obtained:

1. Data sets to be reviewed during collection/verification. (See also federal regulations)

A. Juvenile Detention Centers

1. Accused status offenders held for more than 24 hours (excluding weekends and holidays), **prior to an initial court appearance**, excluding those held pursuant to a Valid Court Order, out of state runaways held pursuant to the Interstate Compact and those held pursuant to the Youth Handgun Safety Act or a similar state law.
(These juveniles are violations of the DSO core requirement).
2. Accused status offenders held for more than 24 hours (excluding weekends and holidays), **immediately following an initial court appearance** excluding those held pursuant to a Valid Court Order, out of state runaways held pursuant to the Interstate Compact and those held pursuant to the Youth Handgun Safety Act.
(These juveniles are violations of the DSO core requirement).
3. Adjudicated status and non-offenders held for any length of time.
(Any non-offender sentenced to detention, or any status offender held without benefit of the Valid Court Order, are violations).
4. Status offenders held pursuant to a violation of a Valid Court Orders.
(These juveniles are not violations of the DSO core requirement but DCJ

must verify that the VCO was followed and report on the total number to OJJDP).

5. Out-of-State runaways held over the 24-hour reporting exception.
(If held pursuant to the Interstate Compact rules and regulations they do not count as violations. Verify the Interstate Compact was used with the NYC Interstate Compact Coordinator, Summer Foxworth – summer.foxworth@state.co.us)
6. Federal wards held over the 24 hour reporting exception.
(They are violations but OJJDP excludes them if the allowable rate is exceeded).
7. Non-offenders held for any period of time.
(All non-offenders held securely are violations).
8. Total number of juvenile offenders held pursuant to the Youth Handgun Safety Act or similar state law.
(These juveniles are not violations but the total number is reported in the OJJDP Compliance Monitoring report).
9. Separation violations.
(They are violations of the Separation core requirement).

B. Adult Jails and Adult Lockups

1. Accused status and non-offenders held for any period of time.
(They are violations of the DSO and Jail Removal core requirements, therefore, if a status offender or non-offender is held securely for any period of time they count as two violations, once under DSO and once under Jail Removal).
2. Adjudicated Status and non-offenders held for any length of time including VCO's.
(Again, they are violations of the DSO and Jail Removal core requirements and are counted as two violations, once under DSO and once under Jail Removal).
3. Separation violations.
(They are violations of the Separation core requirement).
4. Accused juvenile criminal-type offenders held in excess of six hours.
(They are counted as Jail Removal violations).
5. Adjudicated juvenile criminal-type offenders held in excess of six hours prior to or following a court appearance, or for any period of time not related to a court appearance. These are juveniles who are sentenced to an adult jail or lockup.
(They are violations of the Jail Removal core requirement).
6. Number of accused juvenile criminal-type offenders held for less than 6 hours for purposes other than identification, investigation, processing,

release to parent(s), transfer to court, or transfer to a juvenile facility following initial custody.

(These are violations of the Jail Removal core requirement).

7. Juveniles held in an adult jail or lockup pursuant to public authority as a disposition or as a means of correcting their behavior and in sight and sound contact with incarcerated adults. Commonly referred to as Shape Up or Scared Straight.

(These are violations of Sight and Sound Separation).

C. Adult Correctional Facilities

1. Any juvenile brought inside an adult correctional facility pursuant to public authority as a disposition or as a means of correcting their behavior. These programs are commonly referred to as Shape Up or Scared Straight.
(These are violations of Sight and Sound Separation).
2. Any status offender held in an adult correctional facility. This is a violation of State law as well as the Federal Act.

Procedures:

1. Adult Jails and Adult Lockups

- A. During on-site inspections the compliance monitor will collect and verify data on juveniles held securely. The information is transferred to the Monthly Log of Juveniles Held which is located in the Facility File. It is copied onto the same form and retained in the compliance monitor's notebook for ease of tabulating yearly information.
 1. Inspections will be scheduled to accommodate a timely capture of juveniles held. Inspections are usually scheduled at facilities that frequently hold juveniles in April (to capture data from October 1 through March 31) and in October (to capture data from April 1 through September 30).
 2. Final annual inspections will be scheduled to capture data from January - December. The monitoring year is October 1 through September 30.
- B. Juvenile Holding Cell logs, see attachment, will be reviewed at each inspection and should document each juvenile that is securely held.
 1. Juvenile Holding Cell logs should be filled out each time a juvenile is placed in a secure area or cuffed to a stationary object. The compliance monitor will review the logs on-site and verify them for accuracy. Verification includes reviewing the juvenile's arrest jacket or case file on a sample of entries to determine if the time in and out of the cell is correct and to determine if the most serious charge is listed.
- C. Information on juveniles held as adults should be kept by the facility and collected by the compliance monitor.
- D. In cases where additional information is required, the compliance monitor will verify the log entries against individual case files at the facility or at the court.

- E. The compliance monitor will retain the Juvenile Holding Cell logs for reporting purposes and they will become part of the individual Facility File for two years. In some cases it is not cost effective to copy the Juvenile Holding Cell logs as there are hundreds of pages of individual entries. If it is not feasible to collect the logs then the compliance monitor will collect the information onsite and request the facility archive the logs for two years.
- F. On or before December of each year, all secure and non-secure law enforcement facilities will receive a year-end report on the status of compliance with the JJDP Act. This is accompanied with a letter of thanks for allowing the compliance monitor access to records and for their cooperation throughout the year with the JJDP Act requirements. (See attachment)

2. Juvenile Detention and Correctional Facilities

- A. These types of facilities maintain a computer program called Trails that documents all juveniles entering and exiting their facilities.
- B. The compliance monitor will collect data as outlined under the “data sets” of this policy for those facilities that qualify as a juvenile detention or juvenile correctional facility. The compliance monitor queries the Trails database for a given period of time. This produces a report of all juveniles admitted to a particular facility during that time period. The compliance monitor has access to the Trails database via the Division of Youth Corrections and has a password for the CDHS portal and DYC Trails portal.

The report is transferred into an Excel spreadsheet; one spreadsheet for each facility.

The spreadsheet contains information on the offense, the docket number and why the juvenile was detained, (pending court hearing or sentence) and admit date/time and release date/time.

Based on this information the compliance monitor is able to determine if the case is a violation of the “24-hour reporting exception” or if further data verification is needed because it is a potential Valid Court Order case.

- C. These facilities receive inspections at least once every three years.
- E. On or before December of each year, the Juvenile Detention Center Directors, the Regional Directors, the Director and the Chief Juvenile Court Judge, the District Court Judges and SB 94 Coordinators will receive a year-end report via email on the status of compliance with the JJDP Act. This is accompanied with a letter of thanks for allowing the compliance monitor access to records and for their cooperation throughout the year with the JJDP Act requirements.

3. District Courts to verify the Valid Court Order

- A. Once the docket number and Judge/Magistrate name is obtained on status offenders who have been sentenced to Juvenile Detention Centers, the compliance monitor will schedule a records review with the District Court clerk.
- B. Individual case files must be reviewed to ensure that the VCO is followed. 100% of

VCO's should be verified. If a file is missing and can't be located then any violations for that District should be projected for the missing files. The compliance monitor determines a) if the First VCO was issued and is in the file, and notes the date; b) if a Written Report was submitted to the court before the sentencing hearing and if it is in the file; and c) if the Second VCO was issued, dated on or before the sentencing date and is in the file. If one of those items is missing it is a violation. The forms used for the Valid Court Order follow this policy.

4. Other Facilities

- A. Other facilities classified as secure, public or private, juvenile facilities will be subject to the same data collection sets as juvenile detention centers.
- B. Other facilities classified as secure, public or private, juvenile or adult facilities, will be subject to the same procedures and data sets as jails and lockups.

5. Non-Reporting Facilities

- A. The OJJDP reporting form "projects" violations for non-reporting facilities. In addition, federal funds can be withheld if Colorado has non-reporting facilities, therefore it is critical that 100% of all data from secure facilities is collected and that a Non-Secure Certification Form is completed annually on all non-secure facilities.

Attachment: Juvenile Holding Log
Sample End of Year Letter to Law Enforcement
Valid Court Order paperwork
First Order Compelling Behavior
Second Order Compelling Behavior
Written Report

MEMO (on letterhead)

TO: Classified Secure Police Departments

FR: Compliance Monitor

DT:

RE: The XXX X (Year) Compliance Monitoring Report

Enclosed please find the chart showing the number of juveniles held securely at Police Departments and the number of violations of the Juvenile Justice and Delinquency Prevention Act of 2002, as amended, for the monitoring year, October 1, 20XX – September 30, 20XX. This information is the basis for the report DCJ is required to submit annually to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP).

As you know, our annual funding from OJJDP is contingent upon compliance with the JJDP Act. I am pleased to report that we are once again in compliance therefore full funding is guaranteed.

On behalf of the Colorado Juvenile Justice and Delinquency Prevention Council and the Colorado Division of Criminal Justice our sincere thanks for your willingness to work within the parameters of the JJDP Act, it is understood that at times this is a difficult task, therefore your work and efforts are appreciated very much.

And, my personal thanks for the generous amount of time you always provide me when I am conducting on site visits. I look forward to another productive year and my next visit with you. If you have questions or comments you may reach me at the phone number or e-mail address located in the heading of this memo.

Sincerely,

DCJ Compliance Monitor

MEMO (on letterhead)

TO: Classified Secure Sheriff's Departments

FR: Compliance Monitor

DT:

RE: The XXX X Compliance Monitoring Report

Enclosed please find the chart showing the number of juveniles held securely at Police Departments and the number of violations of the Juvenile Justice and Delinquency Prevention Act of 2002, as amended, for the 20XX monitoring year, October 1, 20XX – September 30, 20XX. This information is the basis for the report we are required to submit annually to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP).

As you know, our annual funding from OJJDP is contingent up on compliance with the JJDP Act. I am pleased to report that we are once again in compliance therefore full funding is guaranteed.

On behalf of the SAG and SPA our sincere thanks for your willingness to work within the parameters of the JJDP Act, it is understood that at times this is a difficult task; therefore your work and efforts are appreciated very much.

And, my personal thanks for the generous amount of time you always provide me when I am conducting onsite visits. I look forward to another productive year and my next visit with you. If you have questions or comments you may reach me at the phone number or e-mail address located in the heading of this memo.

Sincerely,

DCJ Compliance Monitor

PLEASE NOTE: COLORADO'S VCO IN JUDICIAL RULE IS DIFFERENT THAN CURRENT OJJPD POLICY – PLEASE SEE OJJDP GUIDANCE MANUAL.

Colorado's Valid Court Order Judicial Rule and Forms

Rule 3.8. Status Offenders

Juveniles alleged to have committed offenses which would not be a crime if committed by an adult (i.e., status offenses), shall not be detained for more than 24 hours excluding non-judicial days unless there has been a detention hearing and judicial determination that there is probable cause to believe the **juvenile** has violated a valid court order. A **juvenile** in detention alleged to be a status offender and in violation of a valid court order shall be adjudicated within 72 hours exclusive of non-judicial days of the time detained. A **juvenile** adjudicated of being a status offender in violation of a valid court order may not be disposed to a secure detention or correctional placement unless the court has first reviewed a written report prepared by a public agency which is not a court or law enforcement agency. The report shall address the juvenile's behavior and the circumstances which brought the **juvenile** before the court and shall assess whether all less restrictive dispositions have been exhausted or are clearly inappropriate. The court is not bound by the recommendations contained in the report. Nothing herein shall prohibit the court from ordering the placement of juveniles in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this **rule**. Juveniles alleged to have violated C.R.S. 18-12-108.5 or adjudicated delinquent for having violated C.R.S. 18-12-108.5 are exempt from the provisions of this **rule**.

COMMITTEE COMMENT

The reference to "valid court orders" is taken from the federal **Juvenile** Justice and Delinquency Prevention Act (JJDP) of 1974, as amended, which is found at 42 U.S.C.A. 5601-5751. The Office of **Juvenile** Justice and Delinquency Prevention in April, 1995, issued final regulations to implement that portion of the of the JJDP, as amended in 1992, which addresses the detention and secure confinement of status offenders. These regulations, which are found at 28 C.F.R. 31.303 (f)(3) set forth the legal requirements for issuing of "valid court orders," the violation of which by a status offender may, in certain circumstances, authorize **juvenile** courts to detain and/or commit such youth to secure confinement. The appendix to these rules contains a form for issuing a valid court order and a form order for making a secure placement disposition for violation of a valid court order. The Committee's intent in drafting this **rule** is not to encourage more frequent use of detention for status offenders. The Committee recognizes that Congress and the OJJDP assumed that courts would exhibit self-restraint and exercise the valid court order exclusion only in cases of status offenders who chronically fail to follow court orders. The Colorado supreme court in *In the Interest of J.E.S.*, 817 P.2d 508 (Colo. 1991) quoted from *In Re Ronald S.*, 9 Cal. App. 3D 866, 138 Cal. Rptr. 387 (1977) to comment on the use of secure confinement for status offenders. Certainly not all [status offenders] need to be placed in secure facilities. However, some do and in these cases the **juvenile** court judge must have the authority to detain in a secure facility--if status offenders are to remain in the **juvenile** court. 69 Cal. App. 3d at 875, 138 Cal. Rptr. at 393.

Ohio Representative Ashbrook, who sponsored the valid court order amendment, stated that without the amendment courts would be limited in their ability to work with youths who continually flout the will of the court and that it would make "helping that young person much more difficult." (126 Cong. Rec. H. 10 10932). Ashbrook contemplated that the valid court order exception would primarily be used to provide treatment rather than punishment. The Committee recommends that the Courts adopt this benevolent approach and use the valid court order exception to ensure that secure placements are used only for recalcitrant status offenders. Runaways who are in violation of their probation do not fall under this **rule**.

Source: Entire **rule** and committee comment added and adopted June 12, 1997, effective January 1, 1998; committee comment corrected November 19, 1997; committee comment amended and adopted December 14, 2000, effective January 1, 2001.FORMS

District Court Denver Juvenile Court

_____ County, Colorado

Court Address:

The People of the State of Colorado, In the Interest of:

Child(ren) and concerning

Parents(s)/Guardians(s)

▲ COURT USE ONLY ▲

Case Number:

Division Courtroom

VALID COURT ORDER FOR STATUS OFFENDERS

This matter comes before the Court in the exercise of its jurisdiction provided by §19-1-104, C.R.S.

upon petition _____ concerning the above-named child. This matter was heard before the

Honorable _____, Judge of the Juvenile Court of _____ County, Colorado as

an adjudicatory hearing on the above-cited petition which alleges that said child is a status offender as

that term is defined in In the Interest of J.E.S., 817 P.2d 508 (Colo. 1991) and 28 CFR Sec. 31.304(h).

I. A. Personally before the Court were:

B. Before the Court on service of process were:

C. Counsel present for the child was: _____

D. Upon testimony of the witnesses, the evidence received, reports received, statements and arguments of counsel, and the entire record, the Court finds:

that the child has within a reasonable time been served with a written copy of the charges;

that the child has been informed he/she has the right to a hearing on the matter before the court;

that the child has been informed of the nature of this proceeding and the possible consequences associated with it;

that the child has been informed that he/she has a right to legal counsel and that counsel can be appointed at no charge to the child if the child is indigent and cannot afford counsel;

that the child has been informed that he/she has the right to call witnesses in his/her own behalf and to confront and cross-examine witnesses against him/her;

that the child has been informed that he/she has a right to have a transcript or record of this proceeding;

that proof beyond a reasonable doubt exists that said child is guilty as charged of the allegations contained in the petition for the following reasons:

that the future conduct of the child should be regulated by requiring the child to do

_____ (and) (or) prohibiting said child from _____;

- that the child was warned that the child could be sanctioned for violating this order and such sanction could include placement in a secure detention or correctional facility;
- that a written copy of this order should be provided to the child, the child's attorney, and the child's legal guardian;
- that the child was informed that he/she has a right to appeal this order; within the meaning of the Colorado Children's Code.

II. IT IS, THEREFORE ORDERED:

1. That _____ is hereby prohibited from doing the following:

_____ until _____ or until this injunction is modified or eliminated by subsequent court order.

2. That _____ is hereby required to do the following:

_____ until _____ or until this mandatory injunction is modified or eliminated by subsequent court order.

3. That the child shall immediately accompany _____ and receive a copy of this order.

4. That the clerk office shall mail a copy of this order to _____, the child's attorney and to _____, the child's legal guardian.

5. It is further ordered:

Date: _____

Judge Magistrate

JDF 561 3/06 SECURE PLACEMENT AS DISPOSITION FOR VIOLATION OF VALID COURT ORDER Page 1 of 2

District Court Denver Juvenile Court

_____ County, Colorado

Court Address:

The People of the State of Colorado, In the Interest of:

Child(ren) and concerning

Parents(s)/Guardians(s)

▲ COURT USE ONLY ▲

Case Number:

Division Courtroom

SECURE PLACEMENT AS DISPOSITION FOR VIOLATION OF VALID COURT ORDER

This matter comes before the Court in the exercise of its jurisdiction provided by §19-1-104, C.R.S.

upon petition _____ concerning the above-named child. This matter was heard before the Honorable _____, Judge of the Juvenile Court of _____ County, Colorado

on the petition which alleges that said child is in violation of a valid court order issued by this court on

the _____ day of _____ 20____. Said child was previously adjudicated guilty on petition

_____ and is a status offender as that term is defined in In the Interest of J.E.S., 817 P.2d

508 (Colo. 1991) and 28 CFR Sec. 31.304(h).

I. A. Personally before the Court were:

B. Before the Court on service of process were:

C. Counsel present for the child was:

D. Upon testimony of the witnesses, the evidence received, reports received, statements and arguments of counsel, and the entire record, the Court finds:

- that the child has within a reasonable time been served with a written copy of the charges;
- that the child has been informed he/she has the right to a hearing on the matter before the court;
- that the child has been informed of the nature of this proceeding and the possible consequences associated with it;
- that the child has been informed that he/she has a right to legal counsel and that counsel can be appointed at no charge to the child if the child is indigent and cannot afford counsel;
- that the child has been informed that he/she has the right to call witnesses in his/her own behalf and to confront and cross-examine witnesses against him/her;
- that the child has been informed that he/she has a right to have a transcript or record of this proceeding;

JDF 561 3/06 SECURE PLACEMENT AS DISPOSITION FOR VIOLATION OF VALID COURT ORDER Page 2 of 2

that a probable cause hearing or adjudicatory hearing was held on the _____ day of _____ 20__ at _____ a.m./p.m. which is within 24 hours, excluding weekends and holidays, of the juvenile's placement in secure detention which occurred at _____ a.m./p.m. on the _____ day of _____ 20__;

that this violation hearing is within 72 hours, excluding weekends and holidays, of the juvenile's placement in secure detention which occurred on the _____ day of _____ 20__;

that proof beyond a reasonable doubt exists that said child has violated the valid court order issued by the court on the _____ day of _____ 20__, in the following respects:

that the court has reviewed the written report prepared by _____, a public agency independent of the court and law enforcement, has reviewed the account provided therein of the juvenile's behavior and the circumstances which brought the juvenile before the court, and has reviewed the assessment of whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate;

that there is no less restrictive alternative appropriate to the needs of the juvenile and the community;

that the juvenile should be placed _____ to best serve the interests of the juvenile and the community;

that the child was informed he/she has a right to appeal this order; within the meaning of the Colorado Children's Code.

II. IT IS, THEREFORE ORDERED:

1. That _____, who violated a valid court order, is placed _____ as the disposition of this court.

2. It is further ordered:

Date: _____

Judge Magistrate

Valid Court Order Written Report

Per the Office of Juvenile Justice and Delinquency Prevention Consolidated Federal Regulation (28CFR Part 31) and the Colorado

Judicial Procedure Rule Change #1997 (17) CRJP 3.8 Status Offenders.
Chapter 28 Colorado Rules of Juvenile Procedure. Part Three. Delinquency.

***The Judge should be able to review this report before the Violation Hearing.
Please be as complete and concise as possible for the Judge's benefit.***

Case Number	Juvenile Name	Date This Report Prepared
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Report Prepared By	Title and Agency
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In entering any order that directs or authorizes the placement of a status offender in a secure facility the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a Valid Court Order and applicable due process rights were afforded the juvenile and in the case of a violation hearing the judge must obtain and review a written report that:

1. Reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such an order; (Describe the behavior(s) of the juvenile and why the case was referred to the court. Please be as specific as possible. Attach additional pages as needed).
2. Determines the reasons for the juvenile's behavior; (Please be as specific as possible. Describe who you have interviewed to determine the reasons, what tests/assessments have been conducted, what the juvenile has said, what teachers/agencies have stated. Attach additional pages as needed).
3. Determines whether all dispositions, other than secure confinement, have been exhausted or are clearly inappropriate. (Please list ALL alternatives that have been tried and failed and list all alternatives that have not been tried but are clearly inappropriate).

It is my assessment that it is in the best interest of the minor child and the community that this child should serve a period of detention due to the child's actions in Contempt of this Court, and that are no less restrictive alternative placements appropriate to the needs of the minor child.

Recommended this _____ of _____, _____
Date Month/Year

Signature Printed Name

2.4.1 DEINSTITUTIONALIZATION OF STATUS OFFENDERS \ DSO

Date Issued:	July 1991
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJP Compliance Monitoring Guidance Manual

Statement of Purpose:

The JJDP Act states that no status or non-offender may be held in secure facilities. However, the JJDP Act provides statutory exceptions and the federal regulations provide a regulatory exception. Both exceptions only apply to Juvenile Detention Centers. It is clearly the intent of the JJDP Act that these are the exceptions and not the rule.

Intent of the DSO Core Requirement:

The DSO Core Requirement has been part of the JJDP Act since its inception in 1974. The principles are as follows:

- Holding status and non-offenders in secure confinement, although expedient, is an inappropriate strategy for handling juveniles who have not engaged in any criminal behavior.
- Historically, status offenders, when handled as delinquents, have been placed in environments that lead to physical and emotional harm.
- The punishment of status offenders, often abused and neglected children, simply represents a continuation of the cycle of mistreatment.
- The JJDP Act does not ignore the problems of status and non-offenders. Instead, the JJDP Act has supplied federal funds to the states, which meet the core requirements, to develop a comprehensive continuum of care.

The JJDP Act encourages the creation and implementation of community based treatment, diversion and delinquency prevention programs as appropriate, cost effective alternatives to secure confinement. The maintenance of this requirement promotes just policies concerning status and non-offenders, and it upholds the necessary distinction in treatment strategies for the status and non-offenders versus the more serious juvenile offender. OJJDP, which regulates compliance with the three core requirements, provides for two primary types of exceptions; statutory and reporting exceptions. Reporting exceptions are violations which the Federal regulations allow states to subtract from the total number of violations via regulatory definitions. Where the JJDP is silent on an issue, reporting exceptions define the limited circumstances under which a state will not be penalized. Statutory exceptions are defined in the JJDP Act and established by Congress. Their interpretation is strictly defined by statute.

Statutory Exceptions:

There are three statutory exceptions:

- The first is possession of a handgun. Youth in possession of a handgun are considered to be delinquents per the federal Youth Handgun Safety Act.
- The second is the Valid Court Order.
- The third is Out of State runaways when held pursuant to the Interstate Compact.

Statutory exceptions allow states to remove from consideration, for compliance purposes, offenses that constitute the violation of a Valid Court Order or a violation of Section 922(X) of Title 18 or similar State laws (handgun possession).

The Valid Court Order exception and how to monitor for compliance was explained in the proceeding policy. See also Colorado Rules of Juvenile Procedures, 3.8, as this mirrors the December 1996 federal regulation on the Valid Court Order.

Regulatory Exceptions

There is one regulatory exception:

- An accused status offender may be held in a juvenile detention for up to 24 hours prior to an initial court appearance and for an additional 24 hours immediately following an initial court appearance. Both time frames exclude weekends and legal holidays.

2.4.2 SIGHT AND SOUND SEPARATION

Date Issued:	July 1991
Review Date:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJP Compliance Monitoring Guidance Manual

Statement of Purpose:

Provides that no juvenile will be confined in circumstances where they have contact with incarcerated adults in a secure custody status. The exact wording in the JJDP Act is: “juveniles alleged to be or found to be delinquent, as well as status offenders and nonoffenders, will not be detained or confined in any institution in which they have contact with adult inmates.” The JJDP Act of 2002 further requires that “there is in effect in the state a policy that requires individuals who work with both such juveniles and such adult inmates, including in colocated facilities, to have been trained and certified to work with juveniles.” In addition, in accordance with OJJDP policy and proposed regulation, the state must assure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section of any jail, lockup or correctional facility as a disposition of an offense or as a means of modifying their behavior (e.g. Shock Incarceration, Scared Straight or Shape Up).

Intent of the Separation Core Requirement:

This requirement has been part of the JJDP Act since its inception in 1974. It was passed by Congress in response to the fact that juveniles placed in adult facilities where they had contact with adult inmates and correctional staff were frequently victims of physical, mental, sexual and emotional abuse, and the discovery that juveniles in contact with adult prisoners were exposed to the tools and training necessary to engage in criminal behavior.

In addition to protecting juveniles against abuse and corruption, sight and sound separation reinforces acceptable professional guidelines. The separation of juveniles from adults allow for the immediate mobilization of effective, appropriate services for juveniles. The separation requirement maintains the safety of juveniles while focusing attention on their diversion to community resources.

The American Correctional Association, the American Bar Association, and the Bureau of Indian Affairs support standards requiring separation, therefore, the sight and sound separation requirement represents the minimum standard for safe jail policy. Separation does not apply, nor do any of the requirements apply, to juveniles direct filed or waived to adult court.

The consolidated federal regulation states: “The term contact is defined to include any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. A juvenile offender in a secure custody status is one who is physically detained or confined in a locked room or other area set aside

or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being placed in such a room or area and/or from being physically secured to a cuffing rail or other stationary object. **Sight contact** is defined as clear visual contact between incarcerated adults and juvenile within close proximity to each other. **Sound contact** is defined as direct oral communication between incarcerated adults and juvenile offenders. Separation must be accomplished architecturally or through policies and procedures in all secure areas of the facility which include, but are not limited to, such areas as admissions, sleeping, and shower and toilet areas. Brief and inadvertent or accidental contact between juvenile offenders in a secure custody status and incarcerated adults in secure areas of a facility that are not dedicated to use by juvenile offenders and which are nonresidential, which may include dining, recreational, education, vocational, health care, sally ports or other entry areas, and passageways (hallways), would not require a facility or the State to document or report such contact as a violation. However, any contact in a dedicated juveniles area, including any residential area of a secure facility, between juveniles in a secure custody status and incarcerated adults would be a reportable violation.” Juveniles are not to have any “contact” with incarcerated adults while they are in “secure” custody.

Contact is defined to include any physical or sustained sight and sound contact.

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.

A juvenile offender in secure custody status is one who is physically detained or confined in a locked room or other area set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. It may result from being placed in such a room or from being handcuffed to a stationary object or cuffing rail.

Separation must be achieved architecturally or through policies and procedures in all secure areas of the facility, which include, but are not limited to: Admissions, Sleeping and Shower and toilet areas.

Brief and accidental contact between juveniles and incarcerated adults in secure areas of the facility that are dedicated to use by juvenile offenders and which are nonresidential would not require a facility or State to report a violation. Those areas include: Dining, Recreational, educational and vocational areas, Health care, sally ports or other entry areas and passageways (hallways)

Any contact in a dedicated juvenile area, including any residential area of a secure facility, between juveniles in a secure custody status and incarcerated adults would be a violation.

Added during the 2002 reauthorization is a prohibition of “Scared Straight or Shape Up” type of programming where juveniles would have contact with incarcerated adults. In accordance with current OJJDP policy and proposed regulation, the state must assure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section or an adult jail, lockup, or correctional facility as a disposition of an offense of as a means of modifying their behavior.

2.4.3 THE REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

Date Issued: July 1991

Review Date: 2016

Related OJJDP Regulations: JJDP Act
1996 OJJDP Consolidated Regulation
OJP Compliance Monitoring Guidance Manual

Statement of Purpose:

The JJDP Act states: "Provide that no juvenile shall be detained or confined in any jail or lockup for adults." There are two reporting exceptions that Colorado uses, they are contained in the consolidated federal register. The first states that accused criminal-type offenders may be held in a sight and sound separated area for up to 6 hours for processing purposes only. The second states that alleged or adjudicated juvenile criminal-type offenders may be held for up to 6 hours prior to or following a court appearance. See also the Rural Exception in the OJJDP Guidance Manual.

Intent of the Jail Removal Core Requirement:

The Jail Removal requirement was added to the JJDP Act in 1980, in part as a method of addressing the unintended consequence of the separation requirement. In order to meet the separation requirement, many juveniles were held in solitary confinement for long periods of time. Research indicated an increase of suicides of those juveniles held in adult jails versus juvenile detention centers. In order to provide consistent protection of juveniles, the sight and sound separation requirement necessitated the addition of the jail removal requirement. The removal of juveniles from adult jails and lockups is supported by widespread consensus on the appropriate handling of juveniles.

Juveniles held in adult jails and lockups remain at risk for physical, mental and sexual abuse at the hands of adults. In addition, they are frequently exposed to and educated about how to become better criminals.

The National Council on Crime and Delinquency, the Coalition for Juvenile Justice, the National Sheriffs Association, the Institute for Judicial Administration, the National Advisory Commission on Law Enforcement, and essentially every national organization representing law enforcement and the judicial system, recommends or mandates standards that forbid the jailing of children.

The intent of jail removal is not to release juveniles who, because of their offenses and their history, need to be securely detained but to promote the appropriate secure confinement of these juveniles in juvenile facilities. Juvenile facilities can provide both public safety and specific evaluation and treatment needs of juveniles.

Statutory Exception

- Juveniles who are waived into adult court; or their case is filed directly in adult court are not considered juveniles under the JJDP Act and are therefore

excluded from the regulations. Please note that the juvenile must actually be waived into adult court, or filed on as an adult, prior to the use of this exception. A juvenile may not be held in a jail or lockup over the 6-hour rule pending waiver into adult court.

Reporting Exception - Six Hour Rule

- Juvenile delinquents (accused and adjudicated) may be held (if separated from incarcerated adults) for up to six hours for identification, processing, and to arrange for release to parents or transfer to a juvenile facility.

Six Hour Rule

The six-hour clock starts the moment a juvenile is placed into secure custody status. Once the clock starts it cannot be turned off, even if the juvenile is removed briefly from the locked setting (bathroom break, interview, etc.)

The Six-Hour Rule DOES NOT APPLY when:

1. The juvenile is placed into a locked squad car; or
 2. The juvenile is handcuffed to him or herself; or
 3. The juvenile is in a secure booking area for processing purposes and is under continuous “in-person” supervision and is removed from the secure booking area immediately following the booking process; or
 4. The juvenile is placed into an unlocked room with freedom of movement from the facility.
- Delinquents may be held for up to 6 hours, and for an additional six hours following a court appearance. This exception only allows for the short-term secure holding of juvenile offenders for the purposes of identification, processing, and investigation and to arrange release.

The six hours before and after a court appearance cannot be “traded.” The rules allow for up to six hours before court and six hours after court. You may not detain a juvenile for four hours before court and then eight hours after court. Juveniles in non-secure custody are not subject to the OJJDP regulations. Prohibited are juveniles sentenced to the jail or lockup. The purpose of this exception is to detain juveniles only long enough to “process” their case.

2.5 ANNUAL COMPLIANCE MONITORING REPORT PERIOD

Date Issued: July 1991

Review Date: 2016

Related OJJDP Regulations: OJP Guideline Manual, page 4

Statement of Purpose:

A designated monitoring report period is essential in providing accurate year-to-year monitoring reports. A 12-month report period is the most sound method and leaves no room for statistical errors. In the event a facility will not provide data, a statistically sound method of projecting the data must be used.

Process:

The report period selected is from October 1 through September 30 of each year. Therefore, October 1, 2015 to September 30, 2016 data will be the basis for 2016 Monitoring Report and so on.

Procedures:

1. All data collected for the OJJDP Annual Compliance Monitoring report will reflect that it has been collected from October 1 through September 30 of the respective year of the report.
2. In the event a facility will not report data the facility will be reported on the OJJDP Compliance Monitoring report and the Excel program will project the violations for that facility. As mentioned previously, by state statute all facilities are required to report data. If one does not the DCJ OAJJA Manager will be notified immediately in writing. In addition, federal funds can be withheld if a facility does not report data.
3. The OJJDP Compliance Monitoring Report is located on their web site and should be completed electronically.

Attachments: None

2.6 ANNUAL METHOD OF REPORTING ON THE STATUS OF COMPLIANCE WITH THE JJDP ACT

Date Issued: July 1991

Review Date: 2016

Related OJJDP Regulations: None

Statement of Purpose:

The data and information collected in throughout the year must be analyzed, reviewed, and written up in the form of the annual Monitoring Report, which must be received by OJJDP no later than January 30th of each year.

Process:

It is the compliance monitors responsibility to collect, verify, and compile the data each year. The compliance monitor will complete the narrative for the report; however, the DCJ OAJJA Manager retains the primary responsibility for the report.

Procedures:

1. On or before November 30th of each year the compliance monitor will have collected and verified the data as listed under data sets.
2. After all data has been collected and verified the compliance monitor will extract the data that relates to the annual Monitoring Report and will complete the report. The OJJDP template report is on Microsoft Excel, the form can also be downloaded from the OJJDP web site.
3. The compliance monitor will provide the statistical tables and/or charts needed for the report.
4. The compliance monitor will submit a draft of the report to the JJS for review and revisions. On or before January 15th of each year, a copy of the OJJDP Annual Compliance Monitoring report will be submitted electronically to the OJJDP State Relations contact, along with the accompanying narratives and statistical tables.
5. The report will be made available to the SAG and other interested parties copies of the report.

Attachments: None

3.0 CORE REQUIREMENTS AND OJJDP REGULATIONS BY TYPE OF FACILITY

Date Issued: July 2001

Review Date: 2016

Related OJJDP Regulations: JJDP Act
1996 Consolidated Federal Regulation

Statement of Purpose:

States must use only the federal definitions when monitoring for compliance with the JJDP Act and related regulations. Each type of facility must meet certain criteria in order to be classified as such. Each type of facility complies with the regulations in different ways. This policy is intended to provide the compliance monitor with compliance as it relates to each type of facility recognized by OJJDP. All facilities must fit into one of these categories.

Policy:

Within this policy, a summary of the JJDP Act/regulations by type of facility and type of juvenile are provided.

Procedures:

The compliance monitor will refer to these charts and the rest of the policies and procedures when assessing compliance at facilities.

Facility	D.S.O.	Jail Removal	Separation
Jails/Lockups	Yes	Yes	Yes
Juvenile Detention and Correctional Facilities	Yes	No	Yes
Court Holding	No	No	Yes
Prisons	Yes	No	Yes
Non-Secure Facilities Staff Secure Facilities	No	No	No
Collocated	Yes	No	Yes
Secure Mental Health	Colorado uses civil commitment procedures		

3.1 SECURE AND NON-SECURE CUSTODY

Date Issued:	July 2001
Review Date:	2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP's CM Guidance Manual

Statement of Purpose:

This policy is intended to provide the compliance monitor with direction on monitoring secure and non-secure facilities.

Policy:

During Classification of Facilities the compliance monitor will make an initial determination based on regulations, licensing requirements or from previous onsite inspections whether the facility is secure or non-secure. The only accurate method to confirm the classification is through an onsite inspection. This policy provides guidance on what constitutes a secure facility and what constitutes a nonsecure facility. Data and compliance are linked to secure facilities only. If during an inspection it is determined that a facility has changed classification status from non-secure to secure, the compliance monitor should reclassify the facility as secure and immediately ensure that data is being collected.

Procedures:

Secure Custody is used to define a detention or correctional facility, or residential facilities having construction features designed to physically restrict the movements and activities of persons in custody (e.g., 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 (i.e., staff secure). Further guidance in distinguishing non-secure custody from secure custody comes from the November 2, 1988, Federal Register announcement, Policy Guidance for Non-Secure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy.

Also considered secure are those facilities that contain doors with delayed egress devices that have not received written approval by the authority having jurisdiction over fire codes and/or fire inspections in the area in which the facility is located. The egress delay must never exceed the time delay allowed by the fire code applicable to the area in which the facility is located, and the maximum time delay allowed must be specified on the written approval. Facilities that contain devices that exceed a 30-second delay are always considered secure, even though local code may allow for a longer time delay.

As examples, a juvenile placed in the following situations would be considered in a secure custody status:

1. A juvenile placed in a cell within an adult jail or lockup, whether or not the cell door is locked.
2. A juvenile placed in an unlocked room within the secure perimeter of an adult jail or lockup or a juvenile detention center.
3. A juvenile left in a secure booking area after being photographed and fingerprinted.
4. A juvenile being processed in a secure booking area where an un-secure booking area is available within a facility.
5. A juvenile handcuffed to a rail in an unlocked lobby area of an adult jail or lockup.
6. A juvenile handcuffed to a stationary object in any area of the facility.
7. A juvenile placed in a room that contains egress doors with unapproved delayed egress devices or approved delayed egress devices with a delay of more than 30 seconds.

Non-Secure Custody

A juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in a secure detention or confinement status. OJJDP's Policy Guidance states that all of the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

1. The area where the juvenile is held is an unlocked multi-purpose area, such as a lobby, office, or interrogation room that is not designated, set aside or used as a secure detention area or is not part of such an area, or if a secure area, is used for processing purposes;
2. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
3. The use of the area is limited to providing non-secure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
4. In no event can the area be designated or intended to be used for residential purposes; and
5. The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

In addition, a juvenile placed in the following situations would be considered in a non-secure status:

6. A juvenile handcuffed to a non-stationary object: If the five criteria listed above are adhered to, handcuffing techniques that do not involve cuffing rails or other stationary objects are considered non-secure.
7. A juvenile being processed through a secure booking area: Where a secure booking area is all that is available and continuous visual supervision is provided throughout the booking process and the juvenile remains in the booking area only long enough to be photographed and fingerprinted, the juvenile is not considered to be in a secure detention status. Continued

non-secure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area. Please note, a status offender can be booked in a secure booking area (if no non-secure booking area is available) and this will be considered to be non-secure custody provided the other requirements are met.

8. A juvenile placed in a secure police car for transportation. The JJDP Act applies only to secure detention facilities and secure correctional facilities, therefore, a juvenile placed in a police car for transportation would be in a non-secure status.

9. A juvenile placed in a non-secure runaway shelter but prevented from leaving because of staff restricting access to exits. A facility may be non-secure (i.e., staff secure) if physical restriction of movement or activity is provided solely through facility staff.

10. A juvenile placed in a room that contains doors with delayed egress devices that have received written approval (including a specification of the maximum time delay allowed) by the authority having jurisdiction over fire codes and fire inspections in the area in which the facility is located and which comply with the egress delay established by the authority having jurisdiction over fire codes and fire inspections. In no case shall this delay exceed 30 seconds.

See also OJJDP's Compliance Monitoring Manual located on their web site.

Attachments: None

3.2 TRANSFERRED AND WAIVED JUVENILES

Date Issued: July 2001

Review Date: 2016

Related OJJDP Regulations: JJDP Act
1996 Consolidated Federal Regulation
OJJDP's CM Guidance Manual

Statement of Purpose:

The compliance monitor should exclude juveniles under the age of 18 who are being filed on as adults, or have been transferred to adult court for criminal charges. In Colorado, a juvenile can be filed on automatically as an adult if they commit a certain class of offense. They may also be transferred to adult court by the Judge or they may be filed on in adult court by the DA's office.

Policy:

It is the responsibility of the compliance monitor to determine if a juvenile's case is in juvenile or in adult court.

Procedures:

If **criminal felony charges** have been filed against a juvenile in a court exercising adult criminal jurisdiction; the juvenile can be detained in an adult jail or lockup for any period of time. The jail and lockup removal requirement does not apply to those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed. Note that waiver or transfer and the filing of criminal felony charges does not transform a juvenile into an adult. Therefore, such a juvenile can be detained (or confined after conviction) in a juvenile facility and commingled with juvenile offenders. In 2012 state legislation was passed requiring these juveniles to be housed at the juvenile detention center.

A juvenile who has been transferred or waived or is otherwise under the jurisdiction of an adult criminal court does not have to be separated from adult criminal offenders. This is due to the fact that such a juvenile is not alleged to be or found to be delinquent (i.e., the juvenile is under a criminal proceeding, not a delinquency proceeding). Likewise, an adult held in an adult jail or lockup for delinquency proceeding (generally related to a crime committed before reaching the age of full criminal responsibility) can be held securely in an adult jail or lockup because the adult is not juvenile alleged to be or found to be delinquent. Both types of individuals can be placed wherever the legislature or courts, where authorized, deem appropriate.

Attachments: None

3.3

COLLOCATED FACILITIES

Date Issued:	July 1998
Review Date:	2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP's CM Guidance Manual

Statement of Purpose:

The compliance monitor needs to understand what constitutes a Collocated Facility in order to monitor this type of facility for compliance with the JJDP Act core protections.

Policy:

This policy will serve as guidance when monitoring Collocated Facilities.

Procedures:

A Collocated Facility is a juvenile facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered related when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water and sewer) or beyond specialized services such as medical care, food service, laundry, maintenance and engineering. An approved Collocated Facility is a facility that has been approved by the SPA after meeting the following four criteria:

1. The facility must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and incarcerated adults in the facility. Separation can be achieved architecturally or through time-phasing of common use nonresidential areas; and
2. The facility must have separate juvenile and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility that provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. Time phasing of common use non-residential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns; and
3. If the state will use the same staff to serve both the adult and juvenile populations, there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles; and (this is an OJJDP standard. Colorado's are stricter, based on the pre 2002 Act, and require separate staff, therefore the policy is not required); and
4. In States that have established standards for licensing requirements for juvenile detention facilities; the juvenile facility must meet the standards (on the same basis as a

free standing juvenile detention center) and must be licensed as appropriate. If there are no State standards or licensing requirements, OJJDP encourages States to establish administrative requirements that authorize the State to review the facility's physical plan, staffing patterns, and programs in order to approve the collocated facility based upon prevailing national juvenile detention standards.

The State must determine that the four criteria are fully met via an on-site visit and through the exercise of its oversight responsibility, must ensure that the separate character of the juvenile detention facility is maintained by continuing to fully meet the four criteria set forth. Annual inspections and certifications are required.

Please note that in 2002, the collocated requirements were changed substantially to allow staff to work with both juveniles and adults. In order to determine if a facility is indeed Collocated, the policy and checklist contained as Attachments should be used. It is critical to conduct annual onsite to determine if the facility remains Collocated, or has reverted back to an adult jail or lockup. After a facility has been certified as being Collocated, the same rules and regulations that apply to a Juvenile Detention Center apply to a Collocated facility.

Attachments: DCJ Policy on Collocated Facilities
Colorado's Collocated Checklist

**Colorado Division of Criminal Justice
Collocated Facilities - Policy and Procedure**

Date Issued: August 31, 1997
Review Date: During P/P Annual Reviews
Last Review Date: 2016
Related Legislation: OJJDP Consolidated Federal Register, 1996

Statement of Purpose:

In 1974, Congress enacted the Juvenile Justice and Delinquency Prevention Act (JJDP Act) as a piece of reform legislation designed to provide federal direction, coordination and resources to increase the effectiveness of state juvenile justice systems. The JJDP Act has been amended several times to keep abreast of the changes in the juvenile justice environment.

The Division of Criminal Justice (DCJ) is the state agency designated to administer the federal funds and provide staff support to the Governor's Juvenile Justice and Delinquency Prevention Council (Council), which has grant making and compliance monitoring authority.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has responsibility for the development and promulgation of regulations, guidelines, requirements, criteria and procedures in accordance with the policies, priorities and objectives of the JJDP Act.

Federal regulations issued in 1996 delineate four regulatory requirements that must be met in order to establish a collocated facility where such facility is located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup.

As defined in the regulation, a collocated facility is a juvenile facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered related when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water and sewer) or beyond specialized services such as medical care, food service, laundry, maintenance and engineering.

Procedurally, DCJ must determine that the four requirements for the development of a collocated facility are fully met. The following policy addresses the procedure local law enforcement must use for the submission of a request to DCJ for approval of a collocated facility.

Policy:

The Council and DCJ, in their efforts to maintain compliance with the JJDP Act, will review all collocated facility plans prior to the collocated facility's actual implementation. Only those collocated facilities that fully meet the federal regulatory requirements will be approved. Of primary concern to the Council and DCJ is the collocated facility creating and maintaining an atmosphere that is appropriate and conducive to the care of alleged juvenile offenders who

require a secure detention environment. Applicants who are denied collocated status on the basis of this policy will be afforded the right to an appeal that will be directed to the Director of DCJ.

Procedures To Request Approval of a Collocated Facility:

- A. A needs-based analysis should be completed to determine if a collocated facility is needed in the community. Consideration should be given to the need for an increase in the number of secure juvenile detention beds based on what is currently available to the jurisdiction. The needs based analysis should take into consideration and be coordinated with the state's plan toward a continuum of detention services for juveniles, including non-secure, staff secure and secure options.
- B. Communities may request technical assistance from DCJ to assist with a needs based analysis, to review physical structures or proposed plans, and to determine if the four mandatory requirements listed in the regulation are met.
- C. Communities shall submit to DCJ a collocated facility application containing the following information: a copy of the needs based analysis and a description of the process used in determining the need for a collocated facility; documentation that the four regulatory requirements have been fully met (the attached checklist may be used) and copies of the policies and procedures manual addressing the criteria for placement and the operations and management of the facility.
- D. Within 2 weeks of receipt of the complete application and accompanying documentation, DCJ will provide the applicant with a letter concurring with or declining approval of the collocated facility.
- E. If approved, DCJ will forward a copy of the application and documentation to OJJDP with a finding that a separate and distinct juvenile detention facility exists meeting all federal requirements.
- F. If the request is denied, DCJ will document the reasons for denial to the applicant agency within 2 weeks. DCJ will offer assistance, if requested, to meet any needed requirement.
- G. An applicant may appeal the denial to the DCJ Director stating the reasons for reconsideration of the application.
- H. The DCJ Director will have the final right of approval or denial.

**Mandatory Requirements for a Collocated Facility
CHECKLIST**

Section 31.303(e)(3) of OJJDP Formula Grant Regulations establishes criteria that must be met in order for a State to approve whether a separate juvenile detention or correctional facility exists within the same building or on the same grounds as an adult jail or lockup.

Name of Facility

Facility Address

Contact Name

Contact Phone, Fax and E-Mail

(Check boxes below when applicable)

Initial Facility Review (31.303(e)(3)(ii))

DCJ conducted an onsite review to determine compliance with the 4 criteria of the collocated facility regulation

_____ Date of onsite review

OR

DCJ reviewed the full construction and operations plans during the planning or construction phase.

_____ Date of onsite review

Collocation Definition (31.303(e)(3)(I)(A))

_____ Facilities are located in the same building

OR

Facilities are part of a related complex of buildings located on the same grounds. Describe what physical features the two buildings share or what services the two programs share in common:

COLLOCATED CRITERIA

The Four Criteria

In formulating these four criteria and policy clarifications, recognition is given to a system in which a state can use collocated facilities that meet the regulatory requirements for a separate facility by creating and maintaining an atmosphere that is appropriate and conducive to the care of alleged juvenile offenders who require a secure detention environment.

- 1. Separate Physical Plant 31.303(e)(3)(I)(A)**
Separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and incarcerated adults. Total separation must be achieved in residential areas, e.g., sleeping and bathroom, through architectural design such that no contact is possible. In program areas, e.g., educational, vocational, and recreational, separation must be achieved either through architectural design or through time-phased use of areas as directed by written policies and procedures.

Background: This is a higher standard than the separation requirement contained in Section 223 (a)(12) of the JJDP Act. The justification of the higher standard is that the regulatory provision for juvenile detention centers within the same related complex of buildings as an adult jail or lockup is located within the jail removal requirement, Section 223 (a)(13) of the JJDP Act.

- _____ A legible floor plan of the facility is provided.
- _____ All relevant areas of the physical plant are clearly labeled.
- _____ The floor plan clearly indicates total spatial separation in the residential areas of the respective facilities.
- _____ The floor plan or policies and procedures clearly indicate either total spatial separation or time phased use of the following areas:
 - _____ Entrance
 - _____ Counseling
 - _____ Intake/Processing/Admissions
 - _____ Medical
 - _____ Dining
 - _____ Religious Services
 - _____ Indoor Recreation
 - _____ Visitation
 - _____ Outdoor Recreation
 - _____ Other Programs
 - _____ Education/Vocation
- _____ Documentation clearly describing resident movement, both scheduled and emergency exits.

Other State Requested Information:

Note activities of adult trustees working on the grounds or in the facility where contact is possible.

Not any emergency situations that would warrant suspending the sight and sound requirement.

2. **Separate Programming (31.303 (e)(3)(I)(B))**
Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities.
Background: The key feature of this criteria is the express requirement that the juvenile population receive a full range of separate program activities, therefore, if the collocated facility does not plan on offering separate juvenile programming, it does not qualify.

_____ A Complete narrative description of all programs that will be available for juveniles, and where the programs will be conducted has been submitted.

_____ There is an independent and comprehensive operational plan for the collocated facility which provides a full range of separate program services .

Other State requested information:

_____ Address health care and the procedures for providing necessary services.

_____ Note any specialized training for program staff that serve juveniles.

3. **Separate Staff (31.303 (e)(3)(I)(B))**
If the state will use the same staff to serve both the adult and juvenile populations , there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles;
Background: This requirement is designed to ensure that a facility's management, security and direct care staff are both qualified to serve and appropriately focused on the needs of the juvenile population while providing support to the juvenile facility purposes.

_____ The collocated juvenile facility organizational chart, and/or other documentation, clearly indicate a permanent, full-time manager or superintendent for the juvenile facility.

_____ The collocated juvenile facility's policies, organizational chart, and /or other documentation clearly indicate that adult residents (trustees) will never be permitted to supervise or provide direct services for juvenile residents, e.g., serving meals, dispensing reading materials, janitorial services in the juvenile area.

_____ Provide a copy of the state policy or statute that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles.

Other State requested information:

_____ Document the recruitment and training required for direct care staff to work with the juvenile population.

_____ Describe the use of specialized services staff that may serve both populations.

4. **Licensing (31.303 (e)(3)(I)(D))**
In state s that have established standards or licensing requirements for secure juvenile detention facilities, the collocated juvenile facility must meet the standards and be licensed as appropriate.

_____ Documentation that the collocated juvenile facility complies with established state standards for operation, through the use of, or accredited by, the American Correctional Association standards for a small juvenile detention or correctional facility as adopted by the Department of Human Services, Division of Youth Corrections.

_____ Documentation of licensing by the state to operate as a juvenile detention center.

Other Requirements:

Criteria addressing the placement of juveniles in the collocated secure facility are essential. The JJDP Act limits the secure holding of status offenders (those juveniles who have committed an offense that would not be criminal if committed by an adult) and prohibits the placement of non-offenders (those juveniles who are dependent, neglected or who have mental health concerns). In order for Colorado to continue to comply with the JJDP Act, the collocated facility must have policies in place which mirror the JJDP Act and regulations .

The use of an unapproved collocated facility for the secure detention of juveniles, other than delinquents held under 6 hours for processing purposes only, and delinquents held for 6 hours before court and 6 hours after court, will be considered violations of the JJDP Act and recorded as such.

Annual On-Site Review (31.303 (e)(3)(iv))

The designated State Agency (DCJ) must annually review the collocated facility on-site and determine the facility to be in compliance with the 4 criteria.

_____ Date of Initial On-Site Review

_____ Date of each subsequent annual onsite review

Summary of Findings:

Certification

I, _____, certify the _____
(Name of DCJ Compliance Monitor) *(Collocated Facility)*

meets the 4 regulatory criteria.

Signature *Date*

3.4 COURT HOLDING FACILITIES

Date Issued: July 2001

Review Date: 2016

Related OJJDP Regulations: JJDP Act
1996 Consolidated Federal Regulation
OJJDP's CM Guidance Manual

Statement of Purpose:

The compliance monitor needs to understand what constitutes a Court Holding Facility in order to monitor this type of facility for compliance with the JJDP Act core protections.

Policy:

This policy will serve as guidance when monitoring Court Holding Facilities.

Procedures:

1. A court holding facility is a secure facility, other than an adult jail or lockup, which is used to temporarily detain persons immediately before or after detention hearings or other court proceedings. Court holding facilities, where they do not detain individuals' overnight (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to court appearances, are not considered adult jails or lockups. However, such facilities remain subject to the section 223(a)(12) (Separation) requirement of the Act.
2. If it is a facility that is used for purposes other than court holding or is used for punitive purposes it no longer qualifies as a court holding facility and should be classified as an adult jail or lockup and that classification should be used to determine compliance.
3. The compliance monitor must monitor court-holding facilities to ensure that they continue to meet the definition and purpose listed above.
4. A status offender or delinquent placed in a court holding facility is exempt from the DSO requirement if the facility meets the criteria listed above.
5. It is important to note that court holding facilities impose an inherent or practical time limitation in that juveniles must be brought to and removed from the facility during the same judicial day.

3.5 OTHER TYPES OF FACILITIES

Date Issued:	July 2001
Last Review:	2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP's CM Guidance Manual

Statement of Purpose:

The compliance monitor needs to understand what constitutes other types of facilities in order to monitor this type of facility for compliance with the JJDP Act core protections.

Policy:

This policy will serve as guidance when monitoring other types of facilities.

Procedures:

Adult Prisons

An adult prison includes any institution used for the post-conviction confinement of adult criminal offenders, including work camps and secure facilities located in the community.

The JJDP Act prohibits the placement of status offenders and non-offenders in secure detention facilities or secure correctional facilities. Holding status offenders or non-offenders in an adult prison would be an immediate violation of the JJDP Act.

The JJDP Act states that no juvenile shall be detained or confined in any jail or lockup for adults, therefore the JJDP Act limits the facilities from which juveniles must be removed to adult jails and lockups. The requirement does not apply to adult prisons. Therefore, holding a delinquent offender in an adult prison is not a violation of the jail removal core requirement.

However, complete separation must be provided between juvenile delinquent offenders and adult inmates and trustees.

Shape Up or Scared Straight programs, where juveniles are brought inside adult prisons to discuss a life of crime with adult inmates as an intervention program, are violations of the separation core protection when the juvenile is required to participate in this program as part of a court order, including probation or diversion requirements. The DCJ compliance monitor needs to annually check with adult prisons to determine if they are participating in this type of program.

Secure Mental Health Facilities

A juvenile committed to a mental health facility under a separate State law governing civil commitment of individuals for mental health treatment or evaluation would be considered outside the class of juvenile status offenders and non-offenders. For monitoring purposes, this distinction does not permit placement of status offenders or non-offenders in a secure mental

health facility where the court is exercising its juvenile status offender or non-offender jurisdiction. The State must ensure that juveniles alleged to be or found to be juvenile status or non-offenders are not committed under State mental health laws to circumvent the intent of DSO.

There are no restrictions to placing delinquent offenders in a mental health treatment center. The separation requirement does not apply if the juvenile and adults are held in a mental health facility solely because of a mental health civil commitment.

A review of state statute and judicial practice confirms that Colorado only places juveniles in secure mental health facilities under a separate law governing civil commitment. See the Monitoring Universe Files for the statute, legal opinion from a Council member and list of facilities. The DCJ compliance monitor needs to review state law annually to determine that no portion of the civil commitment statute has been revised.

Non-secure Temporary Holding Facilities, Staff Secure Facilities, Non-secure Shelter or Group Homes

Non-secure, community based programs or facilities are exempt for the purposes of monitoring for compliance with the core requirements. The core protections only apply to secure facilities. For example, a non-secure residential program for treatment of substance abuse could include both juvenile delinquent or status offenders and adult offenders who are under a sentence for the conviction of a crime.

The compliance monitor should monitor non-secure facilities that hold juveniles to verify their non-secure status. If the facility’s status should change from non-secure to secure, the facility must be monitored as an adult jail or lockup if it holds both juvenile and adult offenders. If it holds only juveniles it must be monitored as a juvenile detention center.

As with other facilities discussed in this Manual, classification of the facility is key to understanding how the core requirements apply and what regulations are to be followed. Classification will determine what type of juvenile may be held and for what period of time. The two primary descriptors to determine facility classification are the level of security and the location of the facility. The following chart provides guidance on the classification of temporary holding facilities.

Location and Security Level of the Temporary Holding Facility	Classified As:	Core Requirements Which Apply
Staff Secure or Non-Secure facility located on the same grounds as an Adult Jail or Lockup	Law Enforcement Non-Secure Custody	None - Must meet Non-Secure Guidelines.
Secure facility located on the same grounds as an Adult Jail or Lockup	Adult Jail or Lockup OR Collocated Facility	If an Adult Jail or Lockup, must comply with DSO, Separation and Jail Removal OR if a Collocated Facility, must meet Collocation Requirements and be inspected annually.
Staff Secure or Non-Secure not located on the same grounds as an Adult Jail or Lockup (may be a standalone facility or one that is attached to or on the same grounds with a Judicial Complex, Detox Unit, Hospital, Assessment Center or Juvenile Correctional Facility)	Temporary Holding Facility	Monitored to ensure it is Non-Secure; must have written Colorado Temporary Holding Guideline policies and procedures which are explained in this section.
Secure facility located off grounds from an Adult Jail or Lockup	Juvenile Detention Center	Monitored as a Juvenile Detention Center if it really qualifies and is licensed by the State as a JDC.

Needs Assessment:

Prior to the establishment of a Temporary Holding Facility it is recommended that a needs assessment should be conducted. Often, these facilities are seen as a solution to a myriad of programmatic problems within a community when in fact it is a limited and expensive option. The costs are higher resulting in a program driven continuum of services for juveniles rather than one driven by client need. Some questions to ask are:

- What purpose would this facility serve our community and juveniles?
- Which juveniles would be placed there, for how long? What placement process would we use?
- What does our data indicate the needs are?
- Can this service be provided elsewhere?
- Does providing temporary holding limit our ability to provide other services for juveniles?
- What are the on-going operating costs and who will cover them?

A juvenile can be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in secure detention or confinement status. OJJDP's Policy Guidance for Non-Secure Custody of Juveniles in Adult Jails or Lockups states that all of the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

The area where the juvenile is held is an unlocked multipurpose area, such as a lobby, office, or interrogation room that is not designated, set aside or used as a secure detention area or is not part of such an area, or if a secure area, is used only, and at all times, for processing purposes; and, The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody within the facility; and, The use of the area is limited to providing non-secure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court; and, The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

Additionally, the following are considered to be juveniles in non-secure status:

A juvenile handcuffed to a non-stationary object. If the 5 criteria listed above are adhered to, handcuffing techniques that do not involve stationary objects or cuffing rings are considered non-secure.

A juvenile being processed through a secure booking area: Where a secure booking area is all that is available and continuous visual supervision is provided throughout the booking process and the juvenile remains in the booking area only long enough to be photographed and fingerprinted, the juvenile is not considered to be in a secure detention status. Continued non-secure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the secure booking area.

All Colorado temporary holding facilities, secure and non-secure, should have written policies

and procedures that correspond to the DCJ Temporary Holding Guidelines. The DCJ compliance monitor should provide the facilities with copies of the guidelines and provide technical assistance if needed in writing them.

Temporary holding facilities are not licensed by the Department of Human Services. The Division of Criminal Justice compiled the following as Guidelines for facilities wishing to hold juveniles for short periods of time (up to 72 hours) awaiting placement or a court hearing.

Division of Criminal Justice Guidelines for Temporary Holding Facilities

Temporary holding facilities are not licensed by the Department of Human Services. The Division of Criminal Justice (DCJ) compiled the following as Guidelines for facilities wishing to hold juveniles for short periods of time (up to 72 hours) awaiting placement or a court hearing. DCJ is required by state law (24-33.5-503 C.R.S. Duties of Division) “to promulgate rules and regulations which set minimum standards for temporary holding facilities as defined in section 19-1-103(106) C.R.S.”

DCJ GUIDELINES FOR TEMPORARY HOLDING FACILITIES

PART I - ADMINISTRATION AND MANAGEMENT

100 GENERAL INFORMATION

- 101 There is a written statement that describes the philosophy, goals, or purposes of the facility.
- 102 The facility should have a policy manual that is made available to all staff and volunteers, and upon request, to others.
- 103 The facility should have an organizational chart that accurately reflects the structure of authority, responsibility and accountability within the facility.
- 104 The facility meets all the licensing requirements of the jurisdiction in which it is located.
- 105 The facility meets all the legal requirements of the governmental jurisdiction in which the facility is located.
- 106 If the facility is on the grounds of any other type of corrections facility it is a separate, self-contained unit.
- 107 Records are safeguarded from unauthorized and improper disclosure. All paper files are marked confidential and kept in locked files, and when any part of the information system is computerized, security ensures confidentiality.
- 108 All written policy and procedure will be reviewed at least annually by the governing authority and updated if necessary.

PART II - PHYSICAL PLANT

200 BUILDING CODES

- 201 The facility conforms to all applicable state and local building codes.
- 202 There is documentation by the authority having jurisdiction that the facility complies with the applicable fire safety codes as required by the local code.
- 203 The facility furnishings shall meet the yearly fire code inspection.

210 ENVIRONMENTAL CONDITIONS

- 211 The facility complies with applicable federal, state, and local sanitation, safety and health codes.
- 212 All housing areas provide for, at a minimum: lighting as determined by the tasks to be performed; access to one toilet above floor level which is available for use 24 hours a day; one wash basin and toilet for every five juveniles; hot and cold running water; showers accessible to juveniles; a heating and ventilation and acoustical system to ensure healthful and comfortable living and working conditions for juveniles and staff; access to drinking water; a bed at floor level; mattress; supply of bed linens; chair; locker space; and natural light.
- 213 A minimum of 70 square feet of floor space per juvenile are provided in the sleeping area.
- 214 The sleeping area provides some degree of privacy.
- 215 Written policy and procedures provide for the issue of suitable clean bedding and linens, to include two sheets, pillow, pillowcase, one mattress and sufficient blankets to provide comfort under existing temperature controls.
- 216 Written policy and procedures ensure that personal hygiene articles are provided.

PART III - INSTITUTIONAL OPERATIONS

300 SECURITY AND CONTROL

- 301 Written policy and procedures provide that instruments of restraint are never applied as punishment, and are applied only with the approval of the facility administrator or designee.
- 302 Written policy and procedures limit the use of physical force to instances of self protection, protection of the juvenile or others, prevention of property damage, prevention of escapes or running away and in accordance with appropriate statutory authority. A written incident report is to be prepared following all uses of force and submitted to the facility administrator.
- 303 Written policy and procedures provide that juveniles are not subjected to corporal or unusual punishment, humiliation, mental abuse or punitive interference with the daily functions of living.
- 304 A juvenile may be placed on restriction status for failing to comply with the rules and regulations of the facility.
- 305 During room restriction, the juvenile shall have constant staff supervision.

- 306 Written policy and procedures preclude the use or withholding of food as a disciplinary measure.

310 SAFETY AND EMERGENCY PROCEDURES

- 311 Written policy and procedures specify the means for prompt release of juveniles in case of emergency, including a posted evacuation plan.
- 312 If smoking is permitted, the facility shall be equipped with noncombustible receptacles for smoking materials.
- 313 Written policy and procedures provide that transportation is available for use in emergencies.

PART IV - FACILITY SERVICES

400 HEALTH CARE

- 401 The facility's administration is to ensure the availability of 24-hour emergency medical and dental care.
- 402 At least one staff member present on each shift of the residential facility is to be trained in emergency procedures, including first aid and CPR.
- 403 The facility should have available, at all times, first aid equipment approved by a recognized health authority.
- 404 Written policy and procedures provides for the prompt notification of the juvenile's next of kin in the event of serious illness, injury, need for hospitalization or death.
- 405 Under no circumstances is a stimulant, tranquilizer or psychotropic drug to be administered to any juvenile for purposes of program management or control, or for purposes of experimentation and research.
- 406 Written policy and procedures provide for special diets as prescribed by appropriate medical or dental personnel.

410 SANITATION

- 411 Written policy and procedures provide for vermin control, and trash and garbage removal.
- 412 There is to be a written housekeeping plan for the facility's physical plant to assure that it is clean and safe.
- 413 Written policy and procedures provide for the holding facility to be inspected prior to occupancy to ensure the sanitation and safety of all internal and external areas and equipment.

- 414 Food services shall comply with all sanitation and health codes enacted by state or local authorities.
- 415 All foods brought into the facility are to be properly stored at all times.

PART V - JUVENILE SERVICES

500 RECEPTION AND ORIENTATION

- 501 Written facility policy and procedures prohibits the confinement of any juvenile in the facility unless it is clearly shown that secure or staff secure placement is essential and then only until transport to an appropriate facility can be arranged.
- 502 No youth will be accepted for holding if the youth requires detoxification from alcohol, opiates, barbiturates and similar drugs unless accompanied by a medical release.
- 503 All youth shall be accompanied by a screening form, custody report or court order.
- 504 The youth is entitled to an initial telephone call at the time of admission.
- 505 Upon admission, the youth's personal property, which is held for them, shall be recorded.
- 506 Written policy and procedures provide for the following; manual or instrument inspection of body cavities is conducted only when there is reason to do so and when authorized by the facility administrator. Strip searches may be done without specific authorization only upon entry to the facility and while the arresting authority is present. All other times are based upon articulable suspicion. Strip searches must be conducted by members of the same sex.
- 507 Youth may wear their personal clothing.

510 JUVENILE PROGRAMMING

- 511 There is a visiting area that allows for some degree of privacy during visits.
- 512 Visitation is to be done during visiting hours or by appointment only.
- 513 Juveniles are to be provided activities and services at least 14 hours a day of which no more than four hours will be watching television or playing video games.
- 514 Written policy and procedures grant juveniles daily access to recreational opportunities and equipment, including indoor exercise.
- 515 Written policy and procedures provide for each juvenile to shower daily.
- 516 Written policy and procedures require that at least three meals, of which two are hot meals, are provided at regular times during each 24 hour period, with no more than 14 hours between the evening meal and breakfast.

520 JUVENILE HOUSING

- 521 Written policy and procedures provide that male and female juveniles do not occupy the same sleeping rooms, and will be supervised by a member of the same sex.
- 522 Protection requirements for the separation of adult and juvenile offenders shall be met.
- 523 Under no circumstances will adult offenders or trustees work with the youths or be allowed in the youth facility.

530 JUVENILE RIGHTS

- 531 Juveniles are not required to participate in uncompensated work assignments unless the work is related to housekeeping, maintenance of the facility or grounds, or personal hygiene needs.
- 532 Written policy and procedures ensure the right of juveniles to have access to the courts and legal counsel.
- 533 Written policy and procedures exist to assist juveniles in making confidential contact with attorneys and their authorized representatives; such contact includes telephone communication, uncensored correspondence and visits.
- 534 Written policy and procedures provide that juvenile letters, both incoming and outgoing, are not read, except where there is clear evidence to justify such actions; if correspondence is read, the youth is informed in advance and is present when the letter is opened.

3.6

DATA COLLECTION AT JUVENILE DETENTION CENTERS AND JUVENILE CORRECTIONAL FACILITIES

Date Issued: January 2009

Review Date: 2016

Related OJJDP Regulations: JJDP Act
1996 OJJDP Consolidated Regulation
OJJDP's CM Guidance Manual

Statement of Purpose:

States must collect data on all juveniles held securely at all juvenile detention centers and juvenile correctional facilities located within their State. In Colorado, the Division of Youth Corrections is responsible for the placement of all youth committed by the court and is responsible for all youth requiring secure juvenile detention. They are also responsible for collecting the data; it is entered into the Trails program by DYC facility staff. DCJ is responsible for collecting data; see C.R.S. 24-33.5-503. Duties of Division. (1) The division has the following duties: (r) To inspect secure juvenile facilities and to collect data on juveniles that are held in secure juvenile facilities, jails, and lockups throughout the State.

Process:

The Division of Youth Corrections developed a program to report on juveniles held securely at juvenile detention centers and juvenile correctional facilities through Trails. The DCJ compliance monitor is able to produce this report monthly. From the report the DCJ compliance monitor will determine which juveniles were held in violation of the JJDP Act and regulations. The Valid Court Order (VCO) process and paperwork will be confirmed at either the District Court, through the court docket file, additional information can be obtained on-line through the Colorado Court database. If there are additional questions the juvenile's paperwork may be checked at the juvenile detention center or correctional facility.

Procedures:

1. DYC will provide the DCJ compliance monitor with a list of facilities that are certified to securely and non-securely hold juveniles each year in December.
 - A. The DCJ compliance monitor will review the list and confirm through monitoring universe records which facilities are secure.
2. DYC has developed a program so that DCJ can query the Trails system. The program queries all youth admitted to detention.
3. Twice a year (April and October) the DCJ compliance monitor will generate a report for each secure facility.

4. After the report is printed the DCJ compliance monitor will review the data to determine if there are violations. If there are possible VCO cases the DCJ compliance monitor will research those through the Colorado Court database and through the juveniles file (court case file) at the District Court that heard the case.
 - A. The DCJ compliance monitor must ensure that the three VCO forms are contained in each District Court file where the VCO was used: the First Order compelling the behavior, the Written Report and the Second Order sentencing the youth to detention.
 - B. The Written Report must be completed, signed and dated either before or on the date the sentencing hearing was held.
 - C. The First and Second Orders must be completed, signed and dated.
 - D. There must be time between the First and Second orders for the juvenile to comply with the court order.
 - E. If one of the three forms are not in the file, or are not completed, or are not signed and dated correctly it is counted as a violation.

6. It is the intention of DYC to be transparent, in other words, they are interested in providing whatever data DCJ requires for an accurate and complete annual OJJDP compliance monitoring report.

5.0 PROCESS FOR A FACILITY TO REQUEST AN OJJDP OPINION

Date Issued:	July 2001
Review Date:	2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP's CM Guidance Manual

Statement of Purpose:

On occasion, there will be situations or issues that arise when an opinion from OJJDP is required. This might be to reinforce the compliance monitor opinion and ruling or might be a request for assistance in interpreting the regulations. For this reason the following policy is provided.

Process:

A request for an OJJDP opinion should be directed in writing to OJJDP from the compliance monitor through the JJS. Or, in the case where a facility is requesting an opinion, they may submit that opinion after discussing it with the compliance monitor and the SPA should be provided a copy of the request for the Facility File.

Procedures:

1. Prior to writing a letter, the compliance monitor should discuss the situation with the DCJ OAJJA Manager.
2. If the DCJ OAJJA Manager concurs that a letter requesting an opinion is needed, the compliance monitor will write the letter and copy it to the DCJ OAJJA Manager and Chair of the SAG.
3. When a response is received from OJJDP, the compliance monitor will copy the response for the DCJ OAJJA Manager and SAG Chair. A copy of the letter will be included in the Facility File.
4. If the response results in changes in the way compliance monitoring is performed in the State, the changes will be made in the Compliance Monitoring Policy and Procedure Manual no later than July 1 of that year.

Attachments: None

6.0 COMMONLY ASKED COMPLIANCE MONITORING QUESTIONS

Date Issued:	July 2001
Review Date:	2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP's CM Guidance Manual

Statement of Purpose:

The compliance monitor may still have unanswered questions, even after reading this policy and procedure manual and OJJDP manuals.

Policy:

This policy serves to provide additional guidance.

Procedures:

The following is offered as a guide to commonly asked compliance monitoring questions.

FREQUENTLY ASKED QUESTIONS

Deinstitutionalization of Status Offenders

(Section 223 (a)(11)(A) of the JJDP Act)

This requirement has been part of the JJDP Act since its inception in 1974. Congress noted that status and non-offenders were being held in adult jails and lockups for long periods of time simply because there were no other placement options. Since these juveniles had not committed a crime they were the first priority to remove from adult jails and lockups.

Q. Are accused and adjudicated status offenders the same?

R. No. There is a grace period for accused status offenders if they are detained in a juvenile detention or correctional facility. They may be detained for up to 24 hours before an initial court appearance and up to 24 hours following an initial court appearance, exclusive of weekends and holidays. This only applies to accused status offenders, not adjudicated (sentenced) status offenders. Adjudicated status offenders must have all the elements of a Valid Court Order before sentencing or they are violations. There is no grace period for adjudicated status offenders. Accused and adjudicated status offenders may never be placed in an adult jail or lockup.

Q. Does a status offender, after violating a Valid Court Order, become a delinquent?

R. No, they are not reclassified as a delinquent nor can they be “upgraded” to a delinquent.

Q. If possession and/or consumption of alcohol are prohibited by adults (persons between the ages of 18 and 21) then are those charges then considered delinquent offenses and not status offenses?

R. Yes. Pursuant to Acting Administrator Jeff Slowkowski MIP (minor in possession) are considered to be delinquent offenses, see 2010 OJJDP memo.

Q. What is the difference between a non-offender and a status offender?

R. A non-offender is typically a dependent/neglected or abused juvenile whereas a status offender has committed a crime that would not be a crime if committed by an adult (runaway, underage consumption or possession, truancy, curfew violation). A non-offender may not be held in a juvenile detention center under the same “grace” period afforded a status offender, and a non-offender may never be made subject to a Valid Court Order and sentenced to a juvenile detention or correctional facility.

Q. Is possession of a firearm by a juvenile a status offense?

R. Section 922(x) of U.S.C. Title 18 (the Federal Criminal Code), prohibits the possession of a handgun by a juvenile. A juvenile who violates this statute, or a similar State law, is exempted from the DSO requirement. They are not reported as violations of DSO.

Q. May a status or non-offender ever be taken to an adult jail or lockup?

R. Yes. They may be taken to an adult jail or lockup for processing (fingerprints and photo) and placed in a non-secure area awaiting parent or other responsible adult. They may be booked in a secure booking area if they are under the officer’s continuous visual supervision and are removed from the booking area immediately following booking, and there may be no other non-secure booking area available.

Q. If a status offender (or non-offender) is securely detained in an adult jail or lockup, how is this counted as a violation?

R. In fact, when a status offender or non-offender is securely detained in an adult jail or lockup it is counted twice, once under the DSO requirement and again under the Jail Removal requirement.

Q. If a status offender or non-offender is placed in a cell, but the door is not locked, is that a violation?

R. OJJDP's opinion is "a cell is a cell is a cell." Therefore, even if the holding cell door is not locked, it is still a violation.

Q. Can a status offender be transported to a law enforcement facility?

R. Yes, status offenders may be transported and processed in an adult jail where continuous visual supervision is provided throughout the booking process. Continued non-secure custody for the purpose of interrogation, contacting parents or arranging another placement must occur outside the secure booking area.

Q. Can a juvenile before the court because of a petition for mental health commitment, who is ordered committed for treatment of a mental disorder, be placed in a secure mental health facility for treatment purposes? R. It is OJJDP's position that all juvenile non-offenders in any category should not be placed in any secure facility. However, for the purposes of monitoring DSO may be interpreted to include within its scope only juveniles who are before a juvenile, family, or other civil court for reasons that are unique to the individual's status as a juvenile. In other words, for the purposes of monitoring, a juvenile committed to a mental health facility under State law governing civil commitment of individuals for mental health treatment would be considered as outside the class of juvenile non-offenders defined by D SO. It should be perfectly clear that these distinctions for monitoring purposes would not permit placement of status offenders and non-offenders in a secure mental health facility following an adjudication for a status offense or a court finding that the juvenile is a non-offender. The placement of status offenders or non-offenders in such facility for diagnostic purposes is not allowable. A separate civil mental health commitment proceeding would be required before a status offender or non-offender could be placed in a secure facility and, for monitoring purposes, be outside the scope of DSO. Any placement of such status offender or non-offender must occur only after a full due process hearing is undertaken to protect the rights of the child. The State must assure that juveniles alleged to be or found to be status offenders or non-offenders are not committed under state mental health laws to circumvent the intent DSO.

Q. At what point does the Judge need to review the non-court, non-law enforcement written report as described in the Valid Court Order?

R. The Judge must review the written report before the issuance of an order for placement in a secure facility. Please note that this is consistent with Colorado Judicial Rule s, not the federal regulation. In 2002, the VCO was substantially changed, however, Colorado still monitors pursuant to our Judicial Rules.

Sight and Sound Separation

Section 223 (a)(12) of the JJDP Act

This requirement has been part of the JJDP Act since its inception in 1974.

Congress noted that juveniles were being held in adult jails and lockups with adults and were subject to abuse.

Q. Does a juvenile who is being filed on as an adult need to be separated from adult inmates?

R. No. Under the JJDP Act and regulations a juvenile who is being filed on as an adult is not afforded any of the protections of the JJDP Act and therefore does not need to be separated .

According to Colorado statutes a juvenile in this situation needs to be physically separated from the adult inmates.

Q. Can juveniles waived to adult court be held with other juveniles?

R. Yes. Juveniles waived to adult court are considered to be a “swing” group by OJJDP and may be held with either adults or with juveniles providing they have not yet turned 18. Within 6 months of turning 18 they must be removed from juvenile facilities and placed in adult facilities.

Q. S. Can juvenile offenders and adult offenders be placed together in non-secure community-based facilities?

R. Yes. Non-secure community-based facilities do not fall under the JJDP Act.

Q. How does OJJDP define sight and sound contact?

R. 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.

Q. What is a collocated facility?

R. A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered “related” when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer). See the Consolidated Formula Grants regulation for more information on the requirements of a collocated facility.

Q. What is “time-phasing?”

R. Time phasing is using the same space in an adult jail or lockup for both juveniles and incarcerated adults but not at the same time. Time phasing rules should be included in policies and procedures. Time phasing is used to maintain compliance with separation in facilities that do not have separate areas for juveniles and incarcerated adults.

Q. If a juvenile and adult commit a crime together, do they need to be separated?

R. The regulations do not address separation in a patrol car, therefore they can be transported together. Once the juvenile is placed in a secure environment at the adult jail or lockup, separation is required, regardless of whether they committed the crime together.

Q. Does sight and sound apply when juveniles are being transported with adults?

R. No, separation does not apply outside of facilities.

Q. How does the use of trustees apply in determining compliance?

R. When monitoring for separation supervision or contact with adult trustees constitutes a violation.

Q. Is separation required in non-secure facilities?

R. No. None of the core requirements apply in non-secure facilities - only secure facilities.

Q. What about Shape Up programs?

R. Shape Up programs are violations of separation. See OJJDP Guidance Manual or the adult jail and lockup section in this Manual.

Jail Removal

Section 223 (a)(13) of the JJDP Act

This requirement was added to the JJDP Act during reauthorization in 1980.

Congress noted that States were attempting to comply with the separation requirement and consequently, holding juveniles in total isolation for long periods of time. This requirement was added to remove juveniles from adult facilities and detain them in a more appropriate setting.

Q. Can a juvenile who will be filed on (but the process is not yet complete) be held in an adult jail or lockup?

R. No. A juvenile who has been waived to adult criminal court can be detained or confined in an adult jail or lockup only after criminal charges have been filed .

Q. Can a status offender who has violated a Valid Court Order be detained in an adult jail or lockup?

R. No. This type of juvenile may only be detained in a juvenile detention facility.

Q. Can a juvenile whose behavior is beyond the control of the juvenile detention center staff be transferred to an adult jail or lockup until they are under control?

R. No. The juvenile may not be transferred to an adult jail or lockup unless the juvenile, while at the juvenile detention center, is charged with a criminal offense and the juvenile is then held at the adult jail or lockup under one the three exceptions to the jail removal requirement. This juvenile may not be placed in an adult jail or lockup to “teach them a lesson ” or for a cooling off period .

Q. Can the 6-hour time period for accused delinquents before and after court be combined?

R. No. A juvenile may be detained for up to 6 hours before and/or for up to 6 hours after a court appearance. The hours may not be combined or exchanged or traded.

Q. When does the 6-hour time clock start and when is it turned off?

R. The 6 hour clock starts the moment a juvenile is placed in a secure environment. The clock cannot be stopped until the juvenile is permanently removed from the secure environment. The clock does not stop for bathroom breaks, for interviews, for phone calls, etc.

Q. Can a Judge sentence a juvenile to an adult jail or lockup?

R. No. A Judge may never sentence a juvenile to a jail or lockup. They may only sentence them to a juvenile detention or correctional facility.

Compliance Monitoring

Section 223 (a)(14) of the JJDP Act

This requirement charges all participating States to develop a plan and procedure to monitor jails, lockups, juvenile detention and correctional facilities, and non-secure facilities for compliance with the JJDP Act.

Q. What is a secure facility?

R. A secure facility is one where construction fixtures are designed to physically restrict the movements and activities of juveniles.

Q. What does “staff secure” mean?

R. Physical restriction of movement or activity is provided solely through facility staff. It does not include construction fixtures designed to physically restrict the movements and activities of juveniles who are in custody within; it may establish reasonable rules restricting entrance to and

egress from the facility and access to the community which govern the conduct of all facility residents and may use intensive staff supervision or other programmatic intervention strategies.

Q. What is the time frame on the data?

R. The OJJDP Compliance Monitoring report is due within six months of the close of the monitoring year. OJJDP requires states to use the federal fiscal year: October – September.

Q. Is a room with a lock on it considered secure?

R. If a juvenile is placed in a room with a lock on it, even though it is unlocked it is considered secure. An exception is if a department is in only one room and they need to lock it based on the purposes of the room (to keep people away from valuable equipment). If it has the potential to be secure but is never used as a secure room but maybe locked to house equipment and there are policies that state juveniles will never be held there, then it is ok .

Q. If the building perimeter is secure, is a juvenile in the building considered to be in secure custody?

R. Yes, if the perimeter is secure then a juvenile placed in that building is in secure custody. All the core requirements apply.

Q. Is the booking area considered secure if it is secure?

R. No. You can book status offenders in a secure booking area and not log them or count them as violations of DSO provided you move them out once the booking is completed. The juvenile must be in the presence of a law enforcement officer during the entire booking process, there must be no other non-secure booking area available, and the juvenile must be moved out of the secure booking area once the booking process is completed. With the advent of computerized booking, it is a good idea to have the facility “log” them and then agree upon a time limit for booking. If the facility exceeds the agreed upon time limit then it is considered a violation.

Q. What is the exact time frame on the 6-hour rule?

R. A delinquent becomes a violation after 6 hours and 1 minute.

Q. For DSO at juvenile detention centers, when does the clock start?

R. The clock stops at 5:00 p.m. on Friday (or when the court closes for the day) and resumes at 8:00 a.m. on Monday (or when the court resumes for the day). If a juvenile were brought to a juvenile detention center at 7:00 p.m. Friday, the clock would not start until 8:00 a.m. on Monday morning as weekends and legal holidays are excluded from the time frame. Holidays are only legally recognized holidays.

Q. What about time-released locks?

R. It is considered non-secure if there is a delay of up to 30 seconds.

Q. Define what the monitoring universe should consist of, especially what types of public and private facilities, other than detention centers and secure law enforcement facilities, that should be monitored and under what circumstances could they be excluded?

R. The Identification of the Monitoring Universe refers to identifying all residential facilities that might hold juveniles pursuant to public authority and therefore should be classified to determine if each should be included in the other monitoring tasks. This includes those facilities owned or operated by public or private agencies. A full list should be developed and should include all jails, lockups, detention centers, correctional facilities, group homes, foster homes, and any other secure or non-secure public or private mental health facilities and hospitals, chemical dependency programs, detoxification centers, airports, malls, sporting complexes, court holding

facilities, federal facilities (military bases, Native American tribes, INS), temporary holding facilities, collocated facilities, and emergency shelters. Once all facilities are identified, they are classified. In some cases state law may prohibit placement of juveniles in certain facilities, in some cases another state agency regulates the facilities conduct and/or security level. In these cases the facility would need to be classified annually. The facilities remaining that detain juveniles securely, or may by the nature of the facility detain juveniles securely, pursuant to public authority are included in the inspection list.

Q. What is "public authority"?

R. Any law enforcement officer, or judge, or an agent of the court even if they are being paid off-time wages. If the officer has the power to arrest and they are working a second job they are still considered public authority.

Q. Is electronic monitoring secure or non-secure?

R. Non-secure.

Q. How are Native American facilities monitored?

R. Native American reservations are included in the Monitoring Universe. If they are receiving Native American pass-through funds, the tribes must agree to attempt to comply with the core requirements. If they are not receiving funds they are treated as any other federal agency and are not required to comply. One of the most effective methods for compliance is building relationships, offering technical assistance, providing information on liability issues and assisting people in developing a comprehensive juvenile justice strategy.

Q. If a city does not have a lockup and contracts with the county to detain juveniles, should the department be part of the universe?

R. The department should be part of the universe and must be classified annually. The classification process should include an on-site visit periodically to determine if they are still non-secure. If they are non-secure, records do not need to be maintained.

Q. How many cases do you need to verify on VCO?

R. Per federal regulations 10%, or, if there are not that many (50) then verify 100%. Per Colorado policies 100% of VCO's are verified.

Q. Are court holding facilities subject to DSO and Jail Removal?

R. No. They are only subject to separation, provided they meet the criteria for court holding. See Non-Secure regulation, 1988.

Q. How do you verify information on logs?

R. Verification may require that the compliance monitor verify records in several locations. At detention centers you may need to go to the court. At police departments you may need to check in the file or on the radio log.

Q. How can I get facilities to fill out logs completely and what is the best way to deal with a site that is not very cooperative?

R. Facilities report accurate information for several reasons. If completing the logs only adds to their workload but serves no purpose for them seek methods to reframe the reporting so it provides you with the information you need while enhancing their internal operation. Provide them with reasons to collect the information, for example, it can reduce liability and/or provide accurate admission records. If they are not cooperative, gain understanding of their concerns

during your exit interview. They may just be venting their frustration with the requirements. Bring materials to the next on-site that are helpful. Become a resource. Understand their concerns.

Q. Which agencies should be included in compliance site visits?

R. All facilities that detain juveniles securely pursuant to public authority should be included in compliance onsite visits. Facilities that do not have secure facilities, but whose status may change due to the nature of their work, should be monitored periodically to ensure they are still non-secure.

Q. If a Judge orders a juvenile to jail is that still a violation?

R. Yes, court orders do not exempt facilities from compliance with the requirements. A juvenile may be held for up to 6 hours before court and 6 hours after court if they are a delinquent. If they are a status offender they may not be held for any period of time. If a Judge sentences a status offender or delinquent to an adult jail or lockup it is a violation. In the case of the status offender it is a violation of DSO and Jail Removal. In the case of the delinquent, it is a violation of Jail Removal.

Q. Is it a violation if a juvenile lies about their age and is detained with the adult population until it is later discovered they are really a juvenile?

R. If a juvenile lies about their age and local law enforcement acts in good faith and corrects the situation immediately upon receipt of accurate information although a violation has occurred it does not need to be recorded as such. If law enforcement does not correct the situation immediately then a violation should be recorded.

Q. Is a juvenile waived to adult court exempt from the requirements?

R. Yes. The waiver or direct filing must precede a juvenile's placement in a secure adult facility. OJJDP further requires that the charge be a felony.

Q. If a juvenile is in non-secure custody do they need to be logged?

R. No. See non-secure custody requirements first to make sure the juvenile is really in non-secure custody. If they are not, they should not be listed on the juvenile holding cell log.

Q. Is the passage of state legislation sufficient in exempting states from monitoring?

R. No. Simply because a State has legislation that comports with the regulations it does not exempt them from monitoring.

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Appendix (Under Separate Tabs)

1996 Formula Grant Regulation

1998 Formula Grant Regulation (Non-Secure Custody)

JJDP Act of 2002

OJJDP Audit Manual