**Colorado’s FY 2018**

**Compliance Monitoring Plan for**

**Three of the Core Requirements of the JJDP Act**



**March 2019**

Submitted to the Office of Juvenile Justice and Delinquency Prevention

Office of Adult and Juvenile Justice Assistance

Colorado Department of Public Safety

Division of Criminal Justice

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**Colorado’s 3 Year Compliance Monitoring Plan**

**2018 Title II Grant Application Requirements**

**In order to receive Title II Formula Grant awards, states are required to submit a Title II Formula Grant application. The grant application includes: (1) a comprehensive Three-Year Plan or annual update in years two and three of the three-year cycle, and (2) annual compliance data and supporting documentation.**

1. **Three -Year Plan and Annual Update**

**In the first fiscal year of the three-year cycle, states must submit (as part of the Title II grant application submitted through OJP’s GMS) a comprehensive Three Year Plan. The Three-Year Plan is updated annually to report on any new or modified state programs, projects, and activities. More specifically, states must submit a Three-Year Plan that, among other things:**

**• addresses the Formula Grant program requirements [required by Section 223(a) of the JJDP Act and OJJDP’s Formula Grant regulations 28 CFR 31.303(c); 28 CFR 31.303(d); 28 CFR 31.303(e); and 28 CFR 31.303(j)];**

**• provides for an adequate system of monitoring adult jails and lockups, secure detention facilities, secure correctional facilities, court holding facilities, and non-secure facilities, to ensure that states are in compliance with the DSO, Separation, and Jail Removal requirements;**

**• provides a system for the annual reporting of the results of such monitoring to the OJJDP Administrator [Section 223(a)(14) of the JJDP Act, and 28 CFR 31.303(f)];**

**• addresses the DSO, Separation, and Jail Removal requirements; and**

**• addresses the DMC requirement, including a narrative that indicates how the state is implementing, or planning to implement, the five-phase OJJDP DMC Reduction Model (Identification, Assessment/Diagnosis, Intervention, Evaluation, and Monitoring).**

**2. Compliance Data and Supporting Documentation**

***Through BJA/OJJDP’s Compliance Reporting System, states must submit facility data for***

***DSO, Separation, and Jail Removal.***

**See Colorado’s 2017 JJDPA Compliance Monitoring Report and Attachments.**

**Appendix G: Compliance and DMC Plans**

**Important notes: States must submit their compliance and DMC plans, compliance data and Relative Rate Index data, and supporting documentation for the federal fiscal year 2017 (October 1, 2016, to September 30, 2017) electronically to OJJDP’s online compliance reporting tool, separately from this application and no later than April 2, 2018. This appendix and Appendix H provide details regarding what states should include in the compliance and DMC plan submissions.**

**A. Plan for compliance with the deinstitutionalization of status offenders, separation, and jail removal requirements of the Formula Grants Program under the JJDP Act and the state’s compliance monitoring plan. Plans should be data-based and program-specific, including the necessary “who, what, where, how, and when.”**

 **Elements of the comprehensive 3-Year Plan:**

1. **Plan for deinstitutionalization of status offenders (DSO). Pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(11), in its state plan, the state must provide that juveniles who commit status offenses and juveniles who are not charged with any offense and are aliens or alleged to be dependent, neglected, or abused, will not be placed in secure detention or secure correctional facilities except as allowed under the exceptions set forth in the JJDP Act at 34 U.S.C. § 11133 (a)(11)(A).**

**Pursuant to 28 C.F.R. 31.303(c), the state must:**

1. **Describe its plan, procedure, and timetable covering the 3-year planning cycle for assuring that the DSO requirement will be met; and**
2. **Describe the barriers the state faces in achieving compliance with the DSO requirement.**

**(2) Plan for separation of juveniles from adult inmates. Pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(12), in its state plan, the state must provide that: (1) juveniles alleged or found to be delinquent, charged with or found to have committed a status offense, or who have not committed an offense and are aliens or are alleged to be OJJDP-2018-13503 48 and (2) the state has a policy in effect that requires individuals who work with both the juveniles described in (1) and adult inmates, including in collocated facilities, have been trained and certified to work with juveniles.**

**Pursuant to 28 C.F.R. 31.303(d), a state must:**

1. **Describe its plan and procedure, covering the three-year planning cycle, for assuring that the separation requirement is met; and**
2. **Describe the barriers that may hinder the separation of the juveniles described above from adult inmates.**

**(3) Plan for removal of youth from adult jails and lockups. Pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(13), in its state plan, the state must provide that (with limited exceptions) no juvenile shall be detained or confined in any adult jail or lockup.**

**Pursuant to 28 C.F.R. 31.303 (e), the state must:**

**a. Describe its plan, procedure, and timetable for assuring that the jail and lockup removal requirement will be met, and;**

**b. Describe the barriers that the state faces in meeting this requirement.**

**These plan elements may include strategies for achieving and maintaining compliance, such as:**

* **a description of any state or local laws or pending legislation that impact or may impact compliance;**
* **information on how the designated state agency and state advisory group (SAG) will work together to address circumstances that have caused DSO violations to occur;**
* **any recent or pending changes that could impact the state's compliance (e.g., staffing changes); and**
* **detailed goals, objectives, and activities to achieve full compliance, including the title of the individual responsible for each activity and the date by which it will occur. Goals, objectives, and activities should be designed to address the circumstances in which DSO violations have occurred.**

**B. Plan for monitoring for compliance with the DSO, separation, and jail removal requirements of the Formula Grants Program. Pursuant to the JJDP Act at 34 U.S.C. § OJJDP-2018-13503 50**

**11133(a)(14), in its state plan, the state must provide for an adequate system of monitoring jails, lockups, detention facilities, correctional facilities, and non-secure facilities to ensure that the DSO, separation, and jail removal requirements are met.**

**Applying the New JJDPA Partial Final Rule in Colorado**

The partial final rule contains a definition for the term ‘‘detain or confine’’ in section 31.304(q) that differs in some respects from what was in the proposed rule. OJJDP has revised the definition in two key respects: To clarify that (1) a juvenile who was not actually free to leave was ‘‘detained,’’ regardless of whether he believed he was free to leave; and (2) juveniles who are being held by law enforcement personnel for their own safety, and pending their reunification with a parent or guardian or pending transfer to the custody of a child welfare or social service agency, are not ‘‘detained or confined’’ within the meaning of the JJDPA. This revised definition also allows law enforcement to hold juveniles who (for example) are runaways, abandoned, endangered due to mental illness, homelessness, or drug addiction, or are victims of sex trafficking or other crimes, held pending their return to their parent or guardian or while law enforcement locates a safe environment in which to place them. In such instances, juveniles would not be considered to be ‘‘detained or confined’’ at all.

OJJDP has revised the definition to indicate that ‘‘detain or confine’’ means to hold, keep, or restrain a person such that he is not free to leave. If law enforcement personnel indicate that the juvenile was free to leave, it would be incumbent upon them to explain how/ why the juvenile would have understood that he was free to leave. Only if the facility is a jail or lockup for adults or is a secure facility or a secure area within a facility in which adult inmates are detained must it be determined whether the juvenile was detained or confined therein.

OJJDP offers additional clarification of the impact of the definition of ‘‘detain or confine,’’ as used in the separation and jail removal requirements at 42 U.S.C. 5633(a)(12) and (13), respectively. First, those core requirements are applicable only in specific types of facilities. In determining whether there has been an instance of non-compliance with either of these core requirements, it is critical to note that the threshold inquiry must be ‘‘*In what type of facility was the juvenile held?*’’ Core requirements do not apply in non-secure buildings or non-secure areas of a law enforcement agency. The DSO requirement applies only in secure detention or secure correctional facilities, and in Adult Jails or Lockups but only if they meet the definition of a residential facility. The Separation requirement applies only in secure facilities in which juveniles might have contact with adult inmates. The Jail Removal requirement applies only in secure facilities that meet the definition of “adult jails and lockups”.

In 2018, Colorado will inform all its law enforcement agencies about the new requirements of JJDPA regarding Detain and Confine, provide written guidance/policy on the implementation of the new requirements, and provide technical assistance/training to ensure the proper utilization of Detain and Confine. If Colorado law enforcement personnel indicate that the juvenile was free to leave, they will need to explain how a juvenile in their facility would know that they could leave.

In addition, Colorado will identity, through discussions with our state and local law enforcement and human services partners, how and where they would hold those juveniles that are being held for their own safety, and pending their reunification with a parent, guardian, or pending transfer to the custody of a child welfare or social service agency. While it is not specifically stated that these juveniles should not be held securely, both OJJDP and DCJ believe that secure holding shouldn’t be how the juveniles are held. Colorado will work with its law enforcement partners to find the some appropriate ways in which to “hold” these juveniles. We will also look for the new Final Rule which is supposed to address how (if at all) “secure” holding is to be applied to these juveniles

Section 103(22), the term “jail or lockup for adults” means a locked facility that is used by a State, unit of government, or any law enforcement authority to detain or confine adults---

1. pending the filing of a charge or violating a criminal law;
2. awaiting trial on a criminal charge; or
3. convicted of violating a criminal law.

Historically, OJJDP has interpreted the statutory term “jail or lockup for adults” to include the entirety of a law enforcement building where juveniles or others may be detained or confined, including both secure and non-secure areas.

However, OJJDP’s definition of the term “facility” as outlined in 31.304© of the 1996 regulation, provides that a section or subdivision of a law enforcement building may constitute a “facility” in and of itself.

“Facility” – A place, and 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.

* An understanding of a jail or lockup that encompasses only the secure portions of the building is therefore, consistent with both statute and regulations.
* All secure areas of a law enforcement agency (assuming common administrative control) are presumptively included as a part of a single adult jail or lockup. This includes areas with cuffing benches.
* Because non-secure areas of an otherwise secure law enforcement agency do not meet the statutory standard of a “locked facility”, such areas would be separately classified as non-secure and would not be considered as a part of the adult jail or lock-up.
* Similarly, law enforcement buildings that are completely non-secure, do not meet the statutory standard of a “locked facility,” and would not be classified as adult jails or lockups.

Colorado currently does not allow law enforcement facilities that are deemed to be “Secure, Non-holding” to be exempt from having to submit secure juvenile holding logs. In 2018, we will begin the process of updating our facility classifications to allow the designation of “secure, non-holding” by having them identify the “areas” in their facilities where juveniles are taken, and where they aren’t. We will ask them to provide a diagram of their facility to indicate where the “areas” are, and to submit a policy that states where juveniles will and won’t be allowed in the facility. Colorado expects this change to generate many questions, so guidance and technical assistance will be provided. On the other hand, several law enforcement facilities in Colorado have been asking for this type of exemption for several years so it should be well-received. We have spent much time in the past collecting secure juvenile holding logs that had zero holds for several past quarters and years. This will now relieve these agencies of submitting their logs, and us from collecting these logs.

**For any state that utilizes the same staff to serve both adult and youth populations, including but not limited to approved collocated youth detention facilities, a policy must be in effect requiring individuals who work with both youth and adult inmates to be trained and certified to work with youth.**

Every law enforcement officer in Colorado is required to be P.O.S.T. (Peace Officer Standards and Training Board) certified. P.O.S.T. academies are offered at certain law enforcement agencies (for example, the Colorado State Patrol and the Jefferson County Sheriff’s Department have their own academies) and at community colleges throughout the State. If a person attends a community college for P.O.S.T. Certification they will also obtain an Associate of Arts in Criminal Justice. All college academies must be certified by P.O.S.T.; they all offer the same curriculum and the same content. The Colorado community colleges also offer additional course work in criminal justice so the student will have the credit hours to obtain an Associate of Arts in Criminal Justice. Commissioned jail deputies are not required to be P.O.S.T. certified but may receive training through the County Sheriffs of Colorado training division.

Prior to beginning employment at any department officers must be P.O.S.T. certified. The basic mandatory curriculum includes training on: Law Enforcement Ethics and Anti-Bias Policing

* Colorado’s Children’s Code, Criminal Code and Related Federal Statutes
	+ Dynamics of Family Relationships
	+ Incest, Child Abuse, Sexual Exploitation of Children, Harboring a Minor, Domestic Violence
	+ Transfer of juveniles to adult court
	+ Juvenile custody and officer obligations
* Legal Liability
* Liquor Code
* Controlled Substances
* Court Testimony
* Crisis Intervention
* Victim Rights
* Interactions with Special Populations
* Community Policing and Community Partnerships
* Gangs
* Verbal Communication Techniques

Additional supplemental course work is available through P.O.S.T. and at community colleges on:

* D.A.R.E (Drug Abuse Resistance Education)
* School Resource Officer training (each law enforcement department is required to have one SRO)
* Delinquent behavior; to include juvenile development, family dynamics
* Human relations and social conflict
* Child abduction
* Interviewing juveniles

***Plan for Deinstitutionalization of Status Offenders (DSO)***

**Plan for deinstitutionalization of status offenders (DSO). Pursuant to the JJDP Act at 34 U.S.C. § 11133(a)(11), in its state plan, the state must provide that juveniles who commit status offenses and juveniles who are not charged with any offense and are aliens or alleged to be dependent, neglected, or abused, will not be placed in secure detention or secure correctional facilities except as allowed under the exceptions set forth in the JJDP Act at 34 U.S.C. § 11133 (a)(11)(A).**

**Colorado’s Deinstitutionalization of Status Offenders Results**

**Colorado’s DSO Trend Analysis:**

The following chart shows the number of violations and the DSO rate of violations for the last

10 year period beginning in 2008 and ending in 2017.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **DSO - JDCs** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** |
| **Accused Status Offenders held over 24 hours in JDCs** | **18** | **112** | **155** | **53** | **43** | **63** | **32** | **18** | **17** | **9** |
| **Non-offenders Held** |  |  |  |  |  |  |  |  |  | **0** |
| **Adjudicated Status Offenders in JDC’s held without a proper VCO** | **82** | **66** | **64** | **7** | **16** | **20** | **10** | **26** | **3** | **5** |
| **DSO – Adult Jails and Lockups** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** |
| **Accused and Adjudicated Status Offenders held for any period of time in jails or lockups** | **46** | **40** | **46** | **9** | **18** | **17** | **28** | **11** | **9** | **28** |
| **TOTAL DSO VIOLATIONS** | **126** | **93** | **127** | **146** | **218** | **265** | **69** | **77** | **29** | **37** |
| **DSO RATE of Compliance**  | **11.5** | **7.8** | **10.7** | **12.3** | **18.3** | **22.2** | **5.63** | **6.28** | **2.31** | **2.93** |

DSO Rate of Compliance - Section 223(a)(11): Rate of Status Offender and Non-offender detention and correctional institutionalization per 100,000 populations under 18.

**States which have an institutionalization rate of less than 0.00 per 100,000 population will be in compliance. Colorado’s DSO Rate of Compliance is 2.93.**

**Adult Jails and Lockups: Accused and Adjudicated Status Offenders**

The numbers of accused and adjudicated status offenders held in adult jails and lockups in 2017 is 28. Please note that the number of violations represents less than .5% of all the juveniles held securely during the 2017 reporting year.

The majority of status offenders held securely in adult jails or lockups are those arrested on warrants where the original charge was a status offense, such as truancy, runaway, or curfew violations. Courts sometimes issue warrants on juveniles who have Failed to Appear (FTA) in court or Failed to Comply (FTC) with court orders. This action results in involving Law Enforcement which can then pick-up the juvenile and take them to a law enforcement office or holding facility Colorado’s goal is to eliminate this interaction. For example, HB13-1021, signed into law in August 2013, requires school districts to explore best practices and research-based interventions to reduce court involvement and, specifically, the use of detention.

DCJ also trains law enforcement, during on-site visits, on how to avoid situations where status offenders may be held. DCJ will continue to work with law enforcement in developing non-secure areas within their facility for this type of juvenile.

**Juvenile Detention Centers: Accused Status Offenders/D&N**

There are 11 juvenile detention centers in Colorado. Of those, 9 are owned by the state, 1 is owned by a private company, and 1 is owned by a county (Boulder).

In 2017 there were 9 juveniles held in violation of the “24 hour reporting exception.” These types of violations are primarily caused when juveniles are placed in detention pending a detention and placement hearing but due to scheduling conflicts, the detention hearings are not held within 24 hours (excluding weekends and holidays), and/or if juveniles are not released within 24 hours (excluding weekends and holidays) immediately following the initial court appearance.

DCJ is currently addressing the issue of holding D&N juveniles for ANY length of time in a secure facility. Technically, these juveniles are non-offenders, but when they run away from their placement, they can now be held as a status offender under the 24 hour reporting exception. Colorado intention is to never hold D&N juveniles securely in any facility.

**Juvenile Detention Centers: Adjudicated Status Offenders**

In 2018, the use of a detention sentence via the VCO process for truants continues to be a focus area for Colorado. DCJ will continue to work with our State and Local Truancy partners to work towards ending the use of a detention sentence for truants.

**Total number of Status Offenders sentenced to juvenile detention from 2008 – 2017 (violations and non-violations).**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Monitoring Year**  | **2008** | **2009** | **2010** | **2011**  | **2012** | **2013** | **2014** | **2015****(9 mos)** | **2016** | **2017** |
| Adjudicated Status Offenders Held without proper VCO (violations)  | 82 | 66 | 63 | 7 | 16 | 10 | 10 | 26 | 5 | 5 |
| *Valid Court Orders (not violations)* | *232* | *360* | *419* | *356* | *360* | *265* | 195 | 71 | 11 | 11 |
| **Total**  | **314** | **426** | **482** | **363** | **376** | **275** | **205** | **97** | **16** | **16** |

**State Laws or legislation that could impact our compliance with DSO**

**House Bill 17 – 1207**

The bill creates provisions that remove the requirements for the department of human services to receive, detain, or provide care for any juvenile who is 10 years of age and older but less than 13 years of age, unless the juvenile has been arrested or adjudicated for a felony or a weapons charge that is a misdemeanor or felony. Provisions remain in statute for other programs and services for the age group that will no longer require placement of the juvenile in a detention facility.

**House Bill 18-1156**

The truancy bill CONCERNING LIMITATIONS ON PENALTIES FOR TRUANCY that is intending to further limit the use of detention for failing to obey by a valid court order. It would change the cap from 5 days to 48 hours which would also be inclusive of any time the juvenile was securely held prior to the hearing and after they were picked up by law enforcement on a court warrant.  The court would also have to find it was in the child’s and public’s best interest and address a number of enumerated factors which include evidence of the adverse effects of detention on truants.

See <https://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1156_ren.pdf>.

**CRS 13-5-145 Truancy detention reduction policy (Senate Bill 15 184)**

No later than March 15, 2016, the Chief Judge in each Judicial District shall convene a meeting of community stakeholders to create a policy for addressing truancy cases that seeks alternatives to the use of detention as a sanction for truancy. In developing the policy, the Chief Judge and community stakeholders shall consider best practices for addressing truancy, evidence-based practices to address and reduce truancy, using a wide array of reasonable sanctions and reasonable incentives to address and reduce truancy, using detention only as a last resort after exhausting all reasonable sanctions and, when imposing detention, appropriately reducing the number of days served, and research regarding the effect of detention on juveniles.

 **CRS 19-3-403 (2) Time limitations on holding status offenders securely**

“A child requiring physical restraint may be placed in a juvenile detention facility operated by or under contract with the department of human services for a period of not more than twenty-four hours, including Saturdays, Sundays, and legal holidays.”

**CRS 19-2-508 (2)** **Time limitations on processing valid court order offenders**

A new law was passed in 2014 under House Bill 12-0213 which states that a juvenile being held in (juvenile) detention on a warrant for violating a valid court order on a status offense the court will hold the next hearing within 24 hours of admission, excluding weekends and legal holidays.

**CRS 22-33-104 Compulsory school attendance**

Boards of Education are encouraged to establish attendance procedures to identify students who are chronically absent and to implement best practices and research-based strategies to improve attendance.

**CRS 22-33-107 Enforcement of compulsory school attendance**

* Defines “Local Community Services Group” as the local juvenile services planning group, local collaborative management group or another local group of public agencies that collaborate with the school district to identify and support services for students.
* Boards of Education shall adopt and implement policies and procedures concerning elementary and secondary school attendance, including but not limited to policies and procedures to work with children who are habitually truant.
* The policies and procedures must include provisions for development of a plan which must be developed with the goal of assisting the child to remain in school.
* Appropriate school personnel are encouraged to work with the local community services group to develop the plan.
* Policies and procedures may include procedures to monitor the attendance of each child enrolled in the school district to identify each child who has a significant number of unexcused absences and to work with the local community services group and the child’s parent to identify and address the likely issues underlying the child’s truancy including any non-academic issues.

**CRS 22-33-108 Judicial Proceedings relating to truants (House Bill 13-1021)**

* Schools can file a truancy petition only as a last resort approach and only after the plan developed pursuant to 22-33-107, C.R.S. has been created and implemented and child continues to be habitually truant.
* Before initiating court proceedings, the school district shall give the child and parent written notice that the schools district will initiate proceedings if the child does not comply with attendance requirements.
* School must at a minimum submit to court 1) attendance record of student before and after the student was identified as habitually truant, 2) whether the child was identified as chronically absent (22-33-104, C.R.S.) and if so, the strategies the school district used to improve the child’s attendance, 3) the interventions and strategies used to improve the student’s attendance before the school created the plan identified in 22-33-107(3), C.R.S., 4) the child’s plan and efforts by the child, child’s parent and school or school district personnel to implement the plan.
* The court may issue an order against the child, the child’s parent, or both compelling the parent to take reasonable steps to assure the child’s attendance. The order must require the child and parent to cooperate with the school district in complying with the plan created for the child.
* If the child does not comply with the court order, the court may order an assessment for neglect be conducted by DSS pursuant to 19-3-102 (1), C.R.S.
* If the court finds the child has refused to comply with the plan approved by the court, the court may impose on the child as a sanction for contempt of court a sentence of detention for no more than five days in a juvenile detention facility.
* As a result of the work and discussions around House Bill 13-1021 the number of status offenders sentenced to detention dropped from 360 in 2012 to 267 in 2013. One District Court (Arapahoe) ruled against using detention for status offenders. Other District Courts (El Paso and Jefferson) are limiting the use of detention to historic lows.

**CRS 22-22-108 requires a valid court order to sentence status offenders**

Please note that it is a violation of State law to sentence status offenders to detention without benefit of the Valid Court Order, see C.R.S. 22-22-108, Judicial Proceedings, “After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106(a) (4) of the Colorado rules of civil procedure and Rule 3.8 of the Colorado Rules of Juvenile Procedures.” Rule 3.8 refers to the Colorado Valid Court Order process which is identical to the OJJDP VCO process prior to the 2002 Act reauthorization.

**CRS 19-2-508 (8) (a) Secure holding of status offenders in adult jails and lockups a violation**

Please note that holding these youth securely is a violation of State law “A juvenile who allegedly commits a status offense or is convicted of a status offense shall not be held in a secure area of a jail or lockup.”

**CRS 19-2-508 (8) (b) Establishment of a fine for holding a status offender in a jail or lockup**

A sheriff or police chief who violations the provisions of paragraph (8) (a) may be subject to a civil fine of no more than one thousand dollars.

**Detailed goals, objectives and action steps to achieve full compliance, including the individual responsible for each step and the date by which it will occur. Goals, objectives, and activities must be directly tied to those circumstances in which separation violations have occurred.**

**Goal: Maintain compliance with the DSO Core Requirement**

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| **Objective A: Properly identify, classify and inspect all facilities in Colorado** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Identify and classify all facilities in CO that could hold juveniles pursuant to public authority. Provide the option to LE to be considered a “Secure, Non-holding” facility, where applicable. | Compliance Monitor | March of each year | Updated monitoring universe |
| Inspect all law enforcement facilities, including non-secure facilities | Compliance Monitor | On-going: 33% of facilities are inspected annually | Updated inspection list on the Colorado database of facilities |
| Inspect all juvenile only facilities | Compliance Monitor | On-going: 33% of facilities are inspected annually | Updated inspection list on the Colorado database of facilities |
| Spot check all other juvenile facilities | Compliance Monitor | On-going | Updated classification list and Monitoring Universe |

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| **Objective B: Collect and verify data on 100% of all juveniles held securely in adult jails, adult lockups and juvenile only facilities** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Run the DYC Trails report to determine if status offenders were held or sentenced to juvenile facilities | Compliance Monitor | 30 days after the end of each quarter  | Completed spreadsheets for each juvenile facility |
| Verify the valid court orders issued by District Courts  | Compliance Monitor | Quarterly  | Verification VCO was used correctly |
| Collect secure juvenile holding logs from all adult jails and lockups | Compliance Monitor | Quarterly  | Logs collected from all facilities holding juveniles securely |
| Verify data from adult jails and lockups | Compliance Monitor | Quarterly | Verification of data from law enforcement |
| Verify non-secure law enforcement facilities are still non-secure | Compliance Monitor | Annually in October | Email all non-secure law enforcement facilities, request they return a non-secure certification form to verify their classification is still non-secure. Classifications are also verified during on-site visits. |

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| **Objective C: Mail Compliance Violation Forms when violations are discovered, notify juvenile only facilities, SB 94 Coordinators and Judges of violations via email twice a year.** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Mail a Compliance Violation Form when violations are discovered at law enforcement agencies. | Compliance Monitor | On-going | Copy of the Compliance Violation Form is contained in each Facility File. |
| Notify Judges of violations during visits to review the valid court order | Compliance Monitor | Twice a year  | On-site summary form is left with Judge and staff after visit detailing the violations |
| Email year-end total number of violations to SB94, Judges, DYC leadership | Compliance Monitor | February/March  | Chart of violations at juvenile facilities |

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| **Objective D: Provide training and technical assistance** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Provide training to all partners on the new JJDPA Final Partial Rule. | Compliance Monitor | 2018, On-going | Number of status offenders held; number of requests for guidance from LE agencies  |
| Discussions with the juvenile justice partners on strategies to address violations of accused status offenders/non-offenders held over the 24 hour reporting exception with a focus on truancy holds. | Juvenile Justice SpecialistCompliance Monitor | On-going | Number of accused status offender violations |
| Meet with SB 94 Coordinators and DYC leadership at their quarterly, regional meetings | Juvenile Justice SpecialistCompliance Monitor | On-going and as needed | Number of violations at juvenile detention centers |
| Train law enforcement during regular on-site visits  | Compliance Monitor | All facilities are inspected once every three years (rate is 33%).  | All facilities will have up to date guidance materials on the JJDP Act and state laws.  |
| Provide technical assistance to law enforcement agencies regarding the use of DCJ’s new mandatory Secure Juvenile Holding Log and the new submission process. | Compliance Monitor | On-going | The number of logs we receive that aren’t using the new form. |

***Plan for Separation of Juveniles from Adult Inmates***

Pursuant to the JJDP Act at 42 U.S.C. 5633(a)(12), the state must develop a plan that provides youth -alleged or found to be delinquent, committed a status offense, and youth not committing any offenses who 53 OJJDP-2017-10943 are alleged to be dependent, neglected, or abused shall not be detained or confined in any institution in which they have contact with an adult inmate; that 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.

**Colorado’s Separation of Juveniles from Adult Inmates Results**

**Colorado’s Separation Trend Analysis:**

The following chart shows the number of Separation violations by secure facility type for the last 10 year period beginning in 2008 and ending in 2017.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **SEPARATION** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** |
| **Secure Juvenile Detention Center Separation Violations** | **0** | **24** | **0** | **1** | **1** | **0** | **0** | **0** | **0** | **0** |
| **Secure Adult Jail and Lock-up Separation Violations**  | **0** | **0** | **0** | **1** | **1** | **0** | **0** | **0** | **0** | **0** |
| **TOTAL SEPARATION** **VIOLATIONS** | **0** | **0** | **0** | **1** | **1** | **0** | **0** | **0** | **0** | **0** |
| **Separation RATE of Compliance** |  |  |  |  |  |  |  |  |  | **0.00** |

**SEPARATION Rate of Compliance - Section 223 (a)(12): Separation rate per 100,000 juveniles at and under the upper age of original court jurisdiction.**

**States that have 0.00 Separation Violations have demonstrated full compliance. Colorado’s Separation Rate of Compliance is 0.00.**

**State Laws or legislation that could impact our compliance with Sight and Sound Separation**

**CRS 19-2-508 (4) (d) (I) Sight and sound separation.**

A juvenile may be detained in an adult jail or lockup only for processing for no longer than six hours and during such time shall be placed in a setting that is physically segregated by sight and sound from adult offenders.

**CRS 19-2-508 (4) (d) (I) Sight and sound separation fines imposed if violated**

**CRS 19-2-508 (4) (g) Prohibition on Scared Straight type of programming**

A juvenile may not be ordered to enter a secure setting or secure section of an adult jail, lockup or prison as a means of modifying their behavior.

The new Partial Final Rule addresses scared straight programs and notes that “whether such programs may result in instances of non-compliance with the separation and/or jail removal requirements will depend on the specific manner in which the program operates and the circumstances of the juvenile’s participation in the program.” Key to this determination is whether the young person was free to leave while in sight and sound contact with adult inmates, and whether their parents gave consent for their participation. Parental consent, they noted, can be withdrawn at any time.

**CRS 19-2-508 (3) (IV) (II) Prohibition on holding direct file juveniles in adult jails**

Juveniles who have been direct filed into district court on adult felony charges shall be held in juvenile detention facilities pending their disposition except in cases where they, or other juveniles, or staff is at risk of harm in juvenile detention centers. They may be moved into an adult jail if the district court finds, after a hearing, that the adult jail is the appropriate placement for the juvenile.

**Detailed goals, objectives and action steps to achieve full compliance, including the individual responsible for each step and the date by which it will occur. Goals, objectives, and activities must be directly tied to those circumstances in which separation violations have occurred.**

**Goal: Maintain compliance with the sight and sound separation core requirement**

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| **Objective A: Properly identify, classify and inspect for separation at all facilities in Colorado** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Identify and classify all facilities in CO that could hold juveniles pursuant to public authority | Compliance Monitor | October of each year | Updated monitoring universe |
| Inspect all law enforcement facilities | Compliance Monitor | On-going: 33% of facilities are inspected annually | Updated inspection list on the Colorado database of facilities as needed. |
| Inspect all juvenile only holding facilities | Compliance Monitor | On-going: 33% of facilities are inspected annually | Updated inspection list on the Colorado database of facilities, as needed. |
| Inspect all Court Holding facilities | Compliance Monitor | On-going: 33% of facilities are inspected annually | Updated inspection list on the Colorado database of facilities, as needed. |
| Spot check all other juvenile facilities | Compliance Monitor | On-going | Updated classification list |
| During each inspection verify for separation through facility layout, policies, and practices | Compliance Monitor | On-going | Updated sight and sound checklist in Facility File |

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| **Objective B: Collect and verify data on 100% of all juveniles held securely in adult jails, adult lockups and juvenile only facilities** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Collect juvenile holding cell logs from all adult jails and lockups | DCJ Administrative Asst Compliance Monitor | January, April, July, and October  | Logs collected at all facilities holding juveniles securely |
| Collect information on separation violations during either inspections or data collection | Compliance Monitor | On-going | Compliance Violation Forms reflecting violations at facilities placed in Facility File and mailed to offending agency |

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| **Objective C: Mail Compliance Violation Forms when violations are discovered, notify juvenile only facilities, SB 94 Coordinators and Judges of violations via email twice a year** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Mail a Compliance Violation Form when violations are discovered to law enforcement agencies | Compliance Monitor | On-going | Copy of the Compliance Violation Form is contained in each Facility File |
| Mail year end total number of violations to law enforcement agencies | Compliance MonitorDCJ Administrative Asst. | November/December  | Chart of violations at jails and lockups |

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| **Objective D: Provide training and technical assistance** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Train law enforcement during regular on-site visits  | Compliance Monitor | All facilities are inspected once every three years (rate is 33%).  | All facilities will have up to date materials on the JJDP Act and state laws contained in a DCJ binder called *Colorado’s Guide for Implementing the Core Protections of the Juvenile Justice and Delinquency Prevention Act of 2002: Safe and Appropriate Holding of Juveniles in Secure Settings and Facilities* |
| Training on the new JJDPA Rules from OJJDP.Colorado must first receive guidance and training from OJJDP before we are able to train our law enforcement partners. | OJJDPCompliance MonitorJuvenile Justice Specialist | On-going | Meeting compliance with the new Rule requirements. |

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| **Objective E: Provide regular updates to SAG, enlist their assistance** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Provide compliance updates at each SAG meeting | Juvenile Justice SpecialistCompliance Monitor | Quarterly meetings | Updates reflected in SAG minutes |
| Convene the SAG Compliance subcommittee twice a year to discuss issues and strategies | Juvenile Justice SpecialistCompliance Monitor | Twice a year as needed | Discussions reflected in SAG meeting minutes |
| Develop barriers to compliance and strategies to address compliance at the annual SAG retreat | Juvenile Justice SpecialistCompliance Monitor | Once a year during the SAG retreat | Barriers and strategies included in annual file on barriers and strategies |

**An overall timetable for achieving compliance.**

Colorado is in compliance and has sufficient state laws and practices to ensure on-going compliance.

Colorado had 0 violations in 2017.

Colorado will be collecting data and reporting on Court Holding facilities in the 2018 Compliance Monitoring Report as required by OJJDP.

***Plan for Removal of Youth from Adult Jails and Lockups***

Pursuant to the JJDP Act at 42 U.S.C. 5633(a)(13), the state must develop a plan that provides that (with limited exceptions) no juvenile shall be detained or confined in any adult jail or lockup.

**Colorado’s Removal of Youth from Adult Jails and Lockups Results**

**Jail Removal Trend Analysis:**

The following chart shows the number of violations and the rate of violations by facility type for the last 10 year period beginning in 2008 and ending in 2017.

| **JAIL REMOVAL (JR)** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Accused delinquents held over 6 hours**  | **13** | **12** | **13** | **9** | **4** | **2** | **9** | **3** | **12** | **22** |
| **Accused delinquents held unrelated to processing** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** |
| **Delinquents held over 6 hours before or after a court appearance or held unrelated to court appearance** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** |
| **JAIL REMOVAL (JR) VIOLATIONS** | **59** | **52** | **59** | **18** | **22** | **19** | **37** | **14** | **12** | **22** |
| **Accused and adjudicated status offenders held securely in adult jails and lockups reported in DSO worksheet.**  | **46** | **40** | **46** | **9** | **18** | **17** | **28** | **11** | **9** | **28** |
| **TOTAL JR Violations** | **105** | **92** | **105** | **27** | **40** | **36** | **65** | **25** | **21** | **50** |
| **Jail Removal RATE of Compliance**  | **5.0** | **4.4** | **4.9** | **1.47** | **1.80** | **1.55** | **3.02** | **1.76** | **1.67** | **3.96** |

JAIL REMOVAL Rate of Compliance – Section 223(a)(13): Rate of Jail Removal violations per 100,000 population at and under the upper age of original juvenile court jurisdiction.

**States that have a rate that is above 0 and is at or below 0.00 per 100,000 juveniles are deemed to be in compliance. Colorado’s Jail Removal Rate of Compliance is 3.96.**

Colorado has been in compliance with Jail Removal since 1993 and continues to be in compliance with a rate of 3.96 in 2017. Due to law enforcement staff turnover and new officer hires, DCJ anticipates that a small percentage of all arrested youth will continue to be violations despite on-going training and state laws that mirror the Jail Removal requirement. All of Colorado law enforcement facilities report data.

Colorado will continue to enforce the Jail Removal requirement to ensure that we continue to meet compliance standards. In FY2017, we will be reviewing Secure Juvenile Holding Logs on a quarterly basis so that we can provide more timely technical assistance when Jail Removal violations are discovered. Also, with the change to the definition of Detained and Confined, guidance/training will be provided to all Law Enforcement agencies in FY2017.

**State Laws or legislation that could impact out compliance with Jail Removal**

**CRS 19-2-508 (4) (d) (I) Delinquents may be held for up to 6 hours in an adult jail or lockup**

Delinquents may be held in an adult jail or lockup, in a sight and sound separated area, for processing purposes only, for up to six hours.

**CRS 19-2-508 (4) (d) (II) Fine of up to $1000 for each such offense**

A sheriff or police chief may be fined up to $1000 for each such offense of holding a delinquent over the six hour time limit.

**CRS 24-33.5-503 Duties of Division (DCJ)**

DCJ has the authority and responsibility to inspect adult jails, lockups and juvenile only facilities for compliance with the JJDP Act.

**CRS 19-2-508 (4) (g) Prohibition on Scared Straight type of programming**

A juvenile may not be ordered to enter a secure setting or secure section of an adult jail, lockup or prison as a means of modifying their behavior.

**Detailed goals, objectives, and action steps for achieving full compliance, including the individual responsible for each step and the date by which it will occur. Goals, objectives, and activities should be directly tied to those circumstances in which jail removal violations occurred.**

**Goal: Maintain Compliance with the Jail Removal Core Requirement**

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| **Objective A: Properly identify, classify and inspect for jail removal at all facilities in Colorado** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Identify and classify all facilities in CO that could hold juveniles pursuant to public authority | Compliance Monitor | October/November of each year | Updated monitoring universe |
| Inspect all law enforcement facilities | Compliance Monitor | On-going: 33% of facilities are inspected annually | Updated inspection list on the Colorado database of facilities |
| Spot check all other juvenile facilities | Compliance Monitor | On-going | Updated classification list |
| During each inspection verify data, facility layout, policies, and practices | Compliance Monitor | On-going | Updated juveniles held by month in all Facility Files |

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| --- |
| **Objective B: Collect and verify data on 100% of all juveniles held securely in adult jails and adult lockups** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Collect juvenile holding cell logs from all adult jails and lockups | DCJ Administrative Asst Compliance Monitor | January, April, July, and October  | Logs collected at all facilities holding juveniles securely |

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| --- |
| **Objective C: Mail Compliance Violation Forms when violations are discovered** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Mail a Compliance Violation Form when violations are discovered to law enforcement agencies | Compliance Monitor | On-going | Copy of the Compliance Violation Form is contained in each Facility File |
| Mail yearend total number of violations to law enforcement agencies | Compliance MonitorDCJ Administrative Asst. | January | Chart of violations at jails and lockups |

|  |
| --- |
| **Objective D: Provide training and technical assistance** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Train law enforcement during regular on-site visits  | Compliance Monitor | All facilities are inspected once every three years (rate is 33%).  | All facilities will have up to date materials on the JJDP Act and state laws.  |
| Training on the new JJDPA Rules from OJJDP. | OJJDPCompliance MonitorJuvenile Justice Specialist | On-going | Meeting compliance with the new Partial Final Rule requirements. |

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| **Objective E: Provide regular updates to SAG, enlist their assistance** |
| **Action Step** | **Who is responsible** | **Due Date** | **Measure**  |
| Provide compliance updates at each SAG meeting | Juvenile Justice SpecialistCompliance Monitor | Quarterly meetings | Updates reflected in SAG minutes |

The JJDP Act at 42 U.S.C. 5633(a)(13)(B) and OJJDP regulations provide for a rural removal exception with regard to youth accused of delinquent offenses, held in certain rural areas, and who are awaiting an **initial court appearance**. Under certain circumstances, such youth may be temporarily detained beyond the 6-hour time limit. It is important to note that **the rural removal exception does not apply to status offenders**. Youth who commit status offenses may not be detained or confined for any length of time in an adult jail or lockup. States must receive prior approval from OJJDP to use the rural exception, except in life-threatening weather conditions as described in the JJDP Act at 42 U.S.C. 5633(a)(13)(B)(ii)(III).

Colorado does not intend on using the Rural Exception. However, Colorado is considering the utilization of the Weather Conditions and the Conditions of Safety exception.

***Plan elements may include strategies for achieving and maintaining compliance, such as:***

* **A description of any state or local laws or pending legislation that impact or may impact compliance;**

See above in each Plan section for DSO, Separation, and Jail Removal.

* **Information on how the designated state agency and state advisory group (SAG) will work together to address circumstances that have caused JJDPA Core Requirement violations to occur.**

DCJ meets with the SAG meets on a quarterly basis during which a compliance monitor update is provided. The Annual Compliance Monitoring Report and Plan is shared with the SAG. Colorado has been in compliance with the JJDPA Core Requirements for at least the last 10 years. Reports are provided at each SAG meeting but due to the low number of violations, SAG involvement is limited.

If there came a time when our DSO, Separation, and Jail Removal failed to meet OJJDP’s Rate Of Compliance Standards, we would seek guidance from our SAG.

* **Any changes that could impact the state’s compliance (e.g., pending or new legislation, staffing changes).** Currently none.
* **Detailed goals, objectives, and action steps to achieve full compliance, including the individual responsible for each step and the date by which it will occur.**

See above in each Plan section for DSO, Separation, and Jail Removal.

**2017 Summary of JJDPA Violations**

Sheriff’s Offices/Jails - Summary of Violations = 10 Total Number of Juveniles Held = 1556

Delinquents held over 6 hours: 4

Status Offender held securely: 6

Police Departments/Lock-ups – Summary of Violations = 40 Total Number of Juvenile Held = 3878

Delinquents Held over 6 hours: 18

Status Offenders Held securely: 22

**TOTAL FOR LAW ENFORCEMENT FACILITIES = 50 Total Number of Juveniles Held = 5434**

Secure Juvenile Detention and Correctional Facilities – Summary of Violations

Accused Status Offenders Held over 24 hours = 9

Adjudicated Status offenders held without a proper VCO = 5

**TOTAL FOR JUVENILE DETENTION CENTERS: 14**

**TOTAL Deinstitutionalization of Status Offender (DSO) Core Requirement Violations**

 9 - Juvenile Detention Centers (Accused status offenders held over 24 hours prior to an initial court appearance, or over 24 hours after an initial court appearance, excluding weekends/holidays.)

  **5 -**  Juvenile Detention Centers (Adjudicated status offenders held without benefit of the Valid Court Order)

 **14 - Total Violations**

**B. Plan for monitoring for compliance with the DSO, separation, and jail removal requirements of the Formula Grants Program. Pursuant to the JJDP Act at 34 U.S.C. § OJJDP-2018-13503 50**

**11133(a)(14), in its state plan, the state must provide for an adequate system of monitoring jails, lockups, detention facilities, correctional facilities, and non-secure facilities to ensure that the DSO, separation, and jail removal requirements are met.**

**10 Elements of an Adequate Compliance Monitoring System**

**(1) Policy and procedures.** States must provide a copy of their compliance monitoring policy and procedures manual.

Colorado’s Compliance Monitoring Policy and Procedures Manual can be publically accessed at: <https://cdpsdocs.state.co.us/oajja/CM/2016ComplianceMonitoringPoliciesandProcedures.pdf>

In 2018, this manual will be updated to include the requirements of the new Partial Final Rule and to provide guidance on meeting the new rules.

**(2) Monitoring authority.** The designated state agency that implements the JJDP Act core requirements should have the legal authority to inspect and collect data from all facilities 55 OJJDP-2017-10943 in which youth might be detained or confined pursuant to law enforcement or juvenile court authority. As an attachment to this application, the state must provide a copy of the legislative statute or executive order that provides the designated state agency with this authority.

In Colorado, the DSA, which is DCJ, collects and verifies data on juveniles held securely. Colorado does not contract with any public or private agency to perform the monitoring function.

In 2006, Colorado obtained legislative authority to monitor and collect data. Colorado Revised Statute 24-33.5-503. “Duties of Division (Division of Criminal Justice) (1) the division has the following duties: (r) to inspect secure juvenile facilities and collect data on juveniles that are held in secure juvenile facilities, jails, and lockups throughout the state.”

A Sheriff or Police Chief who violates the provisions of this section may be fined up to $1000 for each infraction.

See the Colorado Compliance Monitoring Policy and Procedure Manual pages 18-20 to review this legislative statute.

 **(3) Monitoring timeline.** States must keep an annual calendar denoting when and where compliance monitoring will occur. As an attachment to this application, states must provide a copy of their monitoring timetable.

The process used to develop the yearly timeline is contained in the Colorado Compliance Monitoring Policy and Procedure Manual, pages 14-17.

See Attachment 7: 2018 Colorado’s Compliance Monitoring Timetable and Schedule

See Attachment 9: 2018 Planned On-site JJDPA Compliance Monitoring Visits

**(4) Violation procedures.** This section of the plan must describe the legislative and administrative procedures and sanctions that the state has established to receive, investigate, and report compliance violations.

Colorado’s violation policy, procedure and form are contained in the Colorado Compliance Monitoring Policy and Procedure Manual, pages 10-13. Please note that state Statute permits civil fines for a Sheriff or Police Chief that willfully violates Deinstitutionalization of Status Offenders, Jail Removal or Sight and Sound Separation. See C.R.S. 19-2-508 (II), 19-2-508 (8) (b), 25-1-310 (1) (b) and 27-10-105 (1.1) (b).

See Attachment 3: 2017 JJDPA Compliance Monitoring Holding Violation’s Summary

**(5) Barriers and strategies.** Provide a written description of barriers the state faces in implementing an adequate system of compliance monitoring. This description must include strategies the state employs to overcome the barriers.

Colorado’s process to annually identify Barriers and Strategies is addressed in The Colorado Compliance Monitoring Policy and Procedure Manual, page 8.

During Colorado’s annual SAG retreat, final data and violations are presented. The Juvenile Justice Specialist, Compliance Monitor and SAG then discuss what the major barriers are and what would be effective strategies. Those are captured in the SAG meeting minutes.

For 2018, Colorado Barriers and Strategies included:

**Barrier #1:** DCJ recognizes that Juvenile Detention Centers  and counties in Colorado are struggling with the D & N runaways and lack of alternatives, on an emergency basis especially, for temporary holding and placements. **D**uring the course of compliance monitoring over the past year, Colorado's compliance monitor identified 7 instances where juveniles under the jurisdiction of juvenile court for dependence and neglect and receiving out-of-home placement services from the local county department of human/social services were detained after being picked up by law enforcement for running away.  Although, typically such juveniles are non-offenders, we have been told by OJJDP these detention placements are not automatic violations because they were runaways from placement. After receiving that clarification we determined that 5 of these juveniles were still held over 24 hours prior to or after an initial court hearing so will be moved into that DSO violation category and the other two were not violations. Colorado remains concerned that this would not be considered a best practice for our state for juveniles who are subject to dependency and neglect court and social services involvement.

Many Colorado communities do not have adequate non-secure holding facilities, such as shelter homes, temporary holding, or other human services facilities. This is particularly true when it comes to addressing the needs of Dependent and Neglected (D&N) juveniles. For example, if there was a D&N juveniles, that ran away from their placement, the judge may order a bench warrant for the police to pick him up and bring him to court. For status offenders, they can be held at a juvenile detention facility 24 hours before and after an initial court appearance, but that doesn’t apply to D&N juveniles. If court can’t be held until the next day, what should the police do in terms of making sure this juvenile will appear before the court the next day? If the police call human services and they can’t respond promptly or they don’t have any facility openings, what should be done with this juvenile. In addition, Colorado’s law enforcement agencies also struggle with what to do with runaways where it appears that the juvenile’s well-being and safety may be a concern. A prime example of this are those juveniles that law enforcement may suspect of being a part of human trafficking. Law enforcement and Human Service Agencies want to keep these juveniles safe, but laws prohibit the option of holding them securely until appropriate arrangements can be made. This issue reflects a larger concern for the state, the lack of a continuum of placement options for county department of social services as well as within the detention continuum.

**Strategy #1:** The Juvenile Justice Specialist contacted the Division of Youth Services (who are responsible for the Detention Continuum Program and detention placements), the Judicial and Legislative Administrator from the Colorado Department of Human Services and the Family Law Program Manager from the Colorado State Court Administrator's Office to discuss the issue. After understanding that detention was an option for these cases, we all agreed that indeed it still remains a concern from a best practice perspective. Ultimately we hope to send a cross agency communication that will inform all systems involved, from court to detention to county social services, about what is available and processes to access a more robust continuum to avoid unnecessary and damaging detention placement for non-offenders.

**Barrier #2**: Another barrier has been less than fluid rollout of the new Final Partial Rule and the changing effective dates. In addition, the lack of formal written guidance from OJJDP on this new Rule has made it difficult for Colorado to formulate the training on this subject, and update the Colorado Compliance Monitoring Policy and Procedures Manual. DCJ prefers to have supporting written document from OJJDP before we instruct our law enforcement agencies and secure juvenile detention and correctional facilities to make changes to their existing procedures. Inevitably, they will ask, “Where does it say that?” and then we can reference OJJDP’s guidance. The new Partial Final Rule, which states what needs to be done is, of course, in writing but it’s the how it should be done written guidance that we like to have available as a reference for our partners.

**Strategy #2:** Colorado will update its Colorado Compliance Monitoring Policies and Procedures Manual to include the requirements stated in the new Final Partial Rule. The DCJ JJDPA monitor will provide ongoing guidance and training on this as needed. We hope that OJJDP will be able to provide us with their updated Guidance Manual soon so we can provide this as a reference to our partners.

**Barrier #3:** DCJ has been seeking guidance for several years on an issue regarding the holding of juvenile delinquents after they have turned 18, still have a sentence to complete in Youth Corrections, but have now committed and sentenced for an adult crime.

See Attachment 12 for a full understanding of this complex issue.

**Strategy #3:** DCJ’s Juvenile Justice Specialistcontinues to work with State partners to come up with ideas and solution for this issue.

See Attachment 12 to review the discussions that DCJ has had surrounding the handling of these situations.

**(6) Definition of terms.** States’ definitions for juvenile and criminal justice terms sometimes differ from those provided in the JJDP Act. It is critical that these differences are identified and addressed in the monitoring process.

Colorado uses federal definitions exclusively for all monitoring activities. Please see Colorado’s policy on the use of federal definitions in the Policy and Procedure Manual, pages 21-28.

**(7) Identification of the Monitoring Universe.** States must identify all facilities in which violations might occur (i.e., facilities that could meet the definition of a secure detention facility [as defined in the JJDP Act at 42 U.S.C. 5603(12)]; a secure correctional facility [as defined in the JJDP Act at 42 U.S.C. 5603(13)]; a jail or lockup for adults [as defined in the JJDP Act at 42 U.S.C. 5603(22)]; any institution in which a juvenile may be detained or confined such that he has contact with an adult inmate; and non-secure facilities). This list may include both public and privately owned or operated facilities.

This task requires the compliance monitor to query all state partners to determine what facilities have been added and what facilities are no longer operational. The written and documented universe must contain all facilities that might hold juveniles pursuant to public authority. The Monitoring Universe includes: Department of Health and Human Services (foster homes, group homes, residential child care centers, psychiatric treatment centers), ADAD (detoxification and treatment facilities), Division of Youth Corrections (juvenile detention and correctional facilities as well as their contract facilities), Division of Mental Health (psychiatric hospitals and treatment centers), Sheriff’s Departments (jails, substations and court holding facilities), Police Departments (lockups, substations, court holding facilities, sporting complexes, malls, and airports), Department of Corrections (prisons), temporary holding facilities, and Juvenile Assessment Centers (JACs).

The identification of the Monitoring Universe is an annual process in Colorado. It is detailed in the Colorado Policy and Procedure Manual, pages 30-36.

See Attachment 1. List of Colorado’s Monitoring Universe

**(8) Classification of Monitoring Universe.** States must classify all facilities in the state to determine which ones should be considered a secure juvenile detention or correctional facility, adult correctional institution - prison, adult jail or lockup, non-secure facility, or secure, non-holding. Moreover, classification also includes determining whether a facility is public or private, residential or nonresidential, and whether the population is youth only, adult only, or youth and adult.

The classification of the Monitoring Universe is an annual process in Colorado. It is detailed in the Colorado Policy and Procedure Manual, pages 37-40. Due to the changes in some of the facility classification options (Secure, Non-holding) now available per OJJDP, Colorado will be gathering information and updating the classifications of many of its secure facilities in 2018. Colorado will also be updating the overall characteristics (cited above under (8)) of each of its facilities.

See Attachment 1. List of Colorado’s Monitoring Universe

**(9) Inspection of facilities.** Inspection of facilities is necessary to ensure an accurate assessment of each facility’s classification and recordkeeping. States must provide a plan for annually monitoring jails, lockups, and other facilities to determine that they comply with the DSO, separation, and jail removal requirements found in the JJDP Act at 42 U.S.C. 5633(a)(11), (12), and (13).

Colorado’s inspection policy and process is detailed in the Colorado Policy and Procedure Manual, pages 41-53.

See Attachment 2 for a list of all the facilities that received on-site inspections in 2017

See Attachment 9 for a list of the planned on-site inspections for 2018.

**(10) Data collection and verification.** States must collect data from facilities and report the data to OJJDP.

A detailed description of the data collection process and policy can be found in the Policy and Procedure Manual, pages 54-68.

The compliance monitor collects Secure Juvenile Holding Cell logs from all secure holding facilities annually. There are no jails or lockups that do not comply; therefore at this point in time DCJ does not have a statistically valid procedure to project data for non-reporting facilities. No facility in Colorado “self-reports” data; every juvenile detained securely is reviewed personally by the compliance monitor for accuracy and to determine if there are violations. All secure facilities receive an on-site inspection at least once every three years.

Facilities that have been classified as being non-secure are inspected once every three years to ensure they are still non-secure. If a facility is non-secure, a Non-Secure Certification Form is completed and placed in the Facility File. All non-secure facilities report holding 0 juveniles each year; which is confirmed by the compliance monitor.

One of Colorado’s challenges has always been the collection of timely, complete, and legible data on Secure Juvenile Holding logs. In Colorado, annually, this amounts to approximately 5,500 entries to be reviewed to see if any violations occurred. The data came in multiple formats via multiple means (fax, email, snail mail), and was often hand-written and illegible. Trying to decipher, organize, review, record, calculate, and report annually on this information was incredibly time consuming and inefficient.

In the fall of 2017, DCJ began the process of building a form and database that automated the recording, calculating, and review that had taken many hours before. This new process require the use of an electronic, uniform secure juvenile holding log by all secure law enforcement facilities and it will be programmed to calculate certain data points related to the JJDPA Core Requirements that will flag entries when a potential violation occur. At the beginning of program year 2018, all secure law enforcement facilities were sent the notice of this change and instructions to using the new form, and we outlined a transition period that will result in all of the facilities using this form by the 3rd quarter of program year 2018. With the new system, the form can be uploaded within a matter of minutes, and potential violations -- including calculations of time held -- as well as collection of demographics, is done instantaneously and can be reported on within seconds. We are excited about this new system, but we recognize that transitioning to this new form and process may be challenging for our Law Enforcements partners. Technical assistance will always be available to them to ensure that we still collect 100% from facilities required to report. By 2019, DCJ hopes that 100% reporting of secure juvenile holding logs will through this new form and process.

See Attachment 4: 2017 Colorado’s Juvenile Detention Center Report on ASO, ADJSO, VCO Data and Violations Summary; Data on Minors in Possession of Handguns

See Attachment 5: 2017 Colorado’s Police Departments - Holds and Violations Summary

See Attachment 6: 2017 Colorado’s Sheriff’s Offices and Jails - Holds and Violations Summary

**Summary of all Attachments to the Compliance Monitoring Report and Plan**

Attachment 1: 2017 Colorado’s JJDPA Facility Master List

Attachment 2: 2017 Colorado’s On-site Compliance Monitoring Visits

Attachment 3: 2017 JJDPA Compliance Monitoring Holding Violation’s Summary

Attachment 4: 2017 Colorado’s Juvenile Detention Center’s Report on ASO, ADJSO, and VCO – Data and Violations Summary

Attachment 5: 2017 Colorado Police Department and Lockups – Secure Juvenile Holding and Violation’s Summary

Attachment 6: 2017 Colorado Sheriff Offices and Jails – Secure Juvenile Holding and Violation’s Summary

Attachment 7: 2018 Colorado’s Planned JJDPA Compliance Monitoring Timetable and Schedule

Attachment 8: 2017 JJDPA Compliance Monitoring Report – Summary of Data

Attachment 9: 2018 Planned On-site JJDPA Compliance Monitoring Visits

Attachment 10: 2017 Interstate Compact Verification List

Attachment 11: Colorado Valid Court Order (VCO) Process

Attachment 12: Compliance Monitoring Background Material Regarding the Issue of Holding a Juvenile over 18