Colorado's FY 2016
Compliance Monitoring Plan for
Three of the Core Requirements of the JJDP Act

March 2017

Submitted to the Office of Juvenile Justice and Delinquency Prevention

Office of Adult and Juvenile Justice Assistance
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Colorado's 3 Year Compliance Monitoring Plan

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 f**iscal year 2016** [October 1, 2015, to September 30, 2016], electronically to OJJDP's online compliance reporting tool**, separately** from this application and **no later than February 28, 2017.14** This appendix and Appendix H provide details regarding what states should include in the compliance and DMC plan submissions. States may request an extension for one additional month—to March 31—if they can show good cause for the extension.

A. Plan for compliance with the first three core requirements of 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."

New JJDPA Rule changes issued by OJJDP went into effect January 20, 2017. However, the new White House Administration imposed a 60 day hold on implementing any new changes so the new Rules are now tentatively scheduled to go into effect March 20, 2017. Colorado is waiting for further guidance and training from OJJDP regarding implementation of the new Rule. Once it is clear what OJJDP expects from the state and local entities, Colorado will make the necessary revisions to our compliance monitoring policies and procedures manual, and provide training to our juvenile justice partners.

The new Rule that OJJDP released on Jan.17, 2017 also revises the methodology for determining compliance with the first 3 core requirements of the JJDPA. The new methodology will not be applied to FY16 and FY17 monitoring reports in order to permit a transition period.

ELEMENTS OF THE COMPREHENSIVE 3-YEAR PLAN

Plan for Deinstitutionalization of Status Offenders (DSO).

Pursuant to the JJDP Act at 42 U.S.C. 5633, the state must develop a plan that provides that juveniles who commit status offenses and juveniles who are not charged with any offense will not be placed in secure detention or secure correctional facilities except as allowed under the exceptions set forth in the JJDP Act at 42 U.S.C. 5633 (a)(11)(A). OJJDP recommends that the plan include a trend analysis of the state's DSO rates in preceding years (i.e., are rates increasing or decreasing and why).

In addition, OJJDP recommends that the plan discuss the nature of the instances of noncompliance with DSO the state has typically experienced (e.g., status/non-offenders in jails or lockups, youth accused of status offenses held in juvenile detention centers for more than 24 hours, incorrect or inappropriate usage of the valid court order exception).

The state's plan to achieve or maintain compliance with DSO should relate directly to this analysis of violations. OJJDP recommends that the plan include:

• Strategies for achieving and maintaining compliance, including a description of any state or local laws that impact compliance and information on how the designated state agency and state advisory group (SAG) will work together to address those circumstances in which DSO violations have occurred. Any recent or pending changes that could impact the state's compliance (e.g., pending or new legislation and staffing changes). Detailed goals, objectives, and action steps to achieve full compliance, including the title of 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 DSO violations have occurred.

• Information on the SAG's proposed involvement.

Colorado's Plan for Deinstitutionalization of Status Offenders

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 2007 and ending in 2016. Please note: 2016 data is for October 2015 – September, 2016.

	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Accused Status Offenders held over 24 hours in JDCs	16	18	112	155	53	43	63	32	18	17
Adjudicated Status Offenders in JDC's	62	82	66	64	7	16	20	10	26	3
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Accused and Adjudicated Status Offenders held for any period of time in jails or lockups	49	46	40	46	9	18	17	28	11	9
	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
TOTAL VIOLATIONS	**42**	**126**	**93**	**127**	**146**	**218**	**265**	**69**	**77**	**29**
D.S.O. RATE of Compliance	**3.7**	**11.5**	**7.8**	**10.7**	**12.3**	**18.3**	**22.2**	**5.63**	**6.28**	**2.31**

States which have an institutionalization rate of less than 5.8 per 100,000 population will be considered to be in compliance with the de minimis exceptions and will not be required to address Criteria B and C.

The 2016 OJJDP Compliance Monitoring Report (October 2015 - September, 2016) shows Colorado making significant progress and meeting DSO compliance with a rate of 2.31 violations per 100,000 juveniles.

Nature of the violations

Juvenile Detention Centers: Accused Status Offenders

There are 11 juvenile detention centers in Colorado. Of those, 10 are owned by the state and 1 is owned by a county (Boulder). In 2016 there were 17 youth 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 and/or 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.

Juvenile Detention Centers: Adjudicated Status Offenders

DCJ has specifically addressed this type of violation since 2006. In 2006, the JJ Specialist, the Compliance Monitor and a judge from the SAG met with the State Court Administrator's Office and requested they send a memo to all Judges in the State advising them about Colorado Rule 3.8 (it mirrors the OJJDP 1996 Valid Court Order requirement regulation) and the number of violations reported to OJJDP. In 2007 the number of violations again increased and again the JJ Specialist, the Compliance Monitor and the judge from the SAG met with the State Court Administrator's Office (SCAO) and requested they mandate the use of the Valid Court Order forms (first VCO compelling behavior, the Written Report and the second VCO sentencing the juvenile to detention) contained in Colorado Judicial Rule 3.8. Although the SCAO could not mandate the use of the forms, they did issue another memo encouraging the use of the forms, however, in 2008 the violations increased again. From 2009 to 2014 the violations did not increase and were reduced; there were only 10 of these violations in 2014. New judges were placed on the bench in 2015, did not have training, and the number of violations slightly increased. Training was provided to both these districts in 2015. In 2016, the use of detention for truants became a dedicated focus of the JJ Specialist. A meeting was held with the Colorado Supreme Court Justice to discuss the dangers of detention for the truant population and the initial findings of a study being conducted in Colorado on the impact of use of detention for truants was shared (http://dcj.oajja.state.co.us/publications-reports/truancy-and-use-of-detention). The Supreme Court Justice was also instrumental in addressing truancy court processes and use of detention with all 22 District Court Chief Judges due to passage of SB 15-184 which mandated the Chief Judges convene a meeting of community stakeholder to create a local policy for addressing truancy cases that seeks alternatives to the use of detention as a sanction for truancy. In 2016, the numbers institutionalized status offenders, primarily truants, dropped significantly which we believe is due to the efforts described above.

Adult Jails and Lockups: Accused and Adjudicated Status Offenders

The numbers of accused and adjudicated status offenders held in adult jails and lockups in 2016 is 9. In 2015, the number was 11. Please note that the number of violations represents less than .5% of all the juveniles held securely during the 2016 reporting year. Colorado also is tracking the number of underage drinkers, and those in possession of a handgun, held in jails and lockups.

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 issue warrants on juveniles who have Failed to Appear in court or Failed to Comply with court orders often times on a truancy violation. 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. To accomplish this, the law focuses on:

- Creating an intervention plan, jointly completed by students, parents, and the school, with explicit encouragement to work with local service providers and community groups;
- Establishing a district attendance officer to consult with parents and youth to investigate the causes of non-attendance;
- Requiring the school district to implement interventions before resorting to the court; and
- Providing written notice to parents and the student that court proceedings will be initiated for failure to comply (which may be combined with a summons to appear in court).

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.

The designated state agency implementing the Formula Grants Program is responsible for the state's compliance monitoring effort and the validity of the annual monitoring report; that agency may contract with a public or private agency to perform the monitoring function. If selecting another agency, the state must identify in its monitoring plan which agency it has authorized and/or tasked to assist in the monitoring functions. This plan should identify the funding amount and the name, address, and telephone number of the contractor. In addition, the plan should include the procedures and activities the state uses to monitor the contractual arrangement.

Description of state and local laws that impact compliance

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.

Any changes that could impact the state's compliance (e.g., pending or new legislation, staffing changes).

New JJDPA Rule changes at OJJDP went into effect January 20, 2017. However, the new White House Administration imposed a 60 day hold on implementing any new changes so the new Rules are now tentatively scheduled to go into effect March 20, 2017. Colorado is waiting for further guidance and training from OJJDP regarding implementation of the new Rule. The new definition of "Detain and Confine" states specifically that detain or confine "means to hold, keep, or restrain a person such that he is not free to leave, or such that a reasonable person would believe that he is not free to leave, except that a juvenile held by law enforcement solely for the purpose of returning him to his parent or guardian or pending transfer to the custody of a child welfare or social service agency is not detained of confined. 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. These youth would not be considered 'detained or confined' at all."

Once it is clear what OJJDP expects from the state and local entities and training is provided, Colorado will make the necessary revisions to our compliance monitoring policies and procedures manual, and provide training to our juvenile justice partners.

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

GOAL: The state of Colorado is in compliance with DSO and will maintain compliance with DSO

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	Compliance Monitor	March 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
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

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 admitted to juvenile facilities	Compliance Monitor	April and October	Completed Excel spreadsheets for each juvenile facility
Verify the valid court order at District Courts using the valid court order	Compliance Monitor	April/May and October/November	Verification VCO was used correctly
Collect juvenile holding cell logs from all adult jails and lockups	Compliance Monitor	January, April, July, and October	Logs collected at all facilities holding juveniles securely
Verify data from adult jails and lockups	Compliance Monitor	January, April, July, and October	Verification of data from law enforcement
Verify non-secure law enforcement facilities are still non-secure	Compliance Monitor	October	Email all non-secure law enforcement facilities, request they return a non-secure certification form to verify their classification is still non-secure

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
Notify Judges of violations during visits to review the valid court order	Compliance Monitor	January, April, July, and October	On-site summary form is left with Judge and staff after visit detailing the violations
Mail yearend total number of violations to law enforcement agencies	Compliance Monitor DCJ Administrative Asst.	December/January	Chart of violations at jails and lockups
Email yearend total number of violations to SB94, Judges, DYC leadership	Compliance Monitor	December/January	Chart of violations at juvenile facilities

Objective D: Provide training and technical assistance			
Action Step	**Who is responsible**	**Due Date**	**Measure**
Training new Judges on the correct use of the VCO	Compliance Monitor	On-going	Number of adjudicated status offenders violations
On-going discussions with the CO DYC Leadership team on strategies to address violations of accused status offenders held over the 24 hour reporting exception	Juvenile Justice Specialist Compliance Monitor	On-going	Number of accused status offender violations
Discuss violations with the state Truancy Committee of the Colorado Commission on Criminal and Juvenile Justice Task Force	Juvenile Justice Specialist	On-going	New state laws to address remaining violations (HB13-1021 is a result of this work)
Meet with SB 94 Coordinators and DYC leadership at their quarterly, regional meetings	Compliance 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 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.	OJJDP Compliance Monitor Juvenile Justice Specialist	On-going	Meeting compliance with the new Rule requirements.

An overall timetable for achieving compliance

Colorado remains in compliance with DSO.

Information on the SAG's proposed involvement

The SAG is updated on compliance status at each quarterly meeting and is involved in all discussions and strategies related to compliance.

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.

OJJDP recommends that the plan include trend analysis of the state's separation compliance rates in preceding years (i.e., are rates increasing or decreasing and why). In addition, OJJDP recommends that the plan discuss the nature of separation violations the state has typically experienced (e.g., problems with adult trustees, physical plant issues in older facilities). The state's plan to achieve or maintain compliance with separation should relate directly to this analysis of violations. OJJDP recommends that the plan include:

• A strategy for achieving and maintaining compliance, including a description of any state or local laws that impact compliance.

• Information on how the designated state agency and the SAG will work together to address circumstances in which separation violations have tended to occur, if relevant.

• Any changes that could impact the state's compliance (e.g., pending or new legislation, staffing changes).

• 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.

• An overall timetable for achieving compliance.

• Information on the SAG's proposed involvement.

Any state in which individuals work with both youth and adult inmates must have in effect a policy requiring that such individuals be trained and certified to work with youth.

Colorado's Plan for Separation of Juveniles from Adult Inmates

Separation Trend analysis:

The following chart shows the number of Separation violations by facility type for the last 10 year period beginning in 2007 and ending in 2016. Please note: 2016 includes data collected between October 2015 and September 2016.

Juvenile Detention and Correction Facilities	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Separation Violations	**0**	**0**	**24**	**0**	**1**	**1**	**0**	**0**	**0**	**0**
Adult Jails and Lockups	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Separation Violations	**0**	**0**	**0**	**0**	**1**	**1**	**0**	**0**	**0**	**0**
TOTAL VIOLATIONS	**0**	**0**	**0**	**0**	**1**	**1**	**0**	**0**	**0**	**0**

States that have 0 Separation Violations have demonstrated full compliance; Colorado had 0 violations.

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

Colorado has one collocated facility in Towaoc operated by the Ute Mountain Ute Tribe and the Bureau of Indian Affairs. They employ separate staff to work with juveniles; these staff are trained and certified as juvenile officers through BIA. Per their Policies and Procedures, there is a clear designation of duties such that staff working on the juvenile side of the facility never works on the adult side of the facility and vice versa. Consequently, Colorado does not have a policy requiring certification of staff that works with both juveniles and adults in collocated facilities. **In 2016, the Ute Mountain Ute reservation did not accept Formula Grant funding and their data was therefore excluded from the 2016 compliance monitoring report per OJJDP written guidance.**

State laws and strategies to maintain compliance

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
A sheriff or police chief who violates the provisions of this section may be fined up to $1000 for each infraction.

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.

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.

Any changes that could impact the state's compliance (e.g., pending or new legislation, staffing changes)

New JJDPA Rule changes at OJJDP went into effect January 20, 2017. However, the new White House Administration imposed a 60 day hold on implementing any new changes so the new Rules are now tentatively scheduled to go into effect March 20, 2017. In this new Rule, it clarifies that separation violations can only occur in facilities that are considered jails and lockups for adults, or a secure facility in which adult inmates are held. It does not apply to schools, malls, etc.

The 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. Colorado law, CRS 19-2-508 (4) (g) Prohibition on Scared Straight type of programming, will still prohibit such programming.

Once it is clear what OJJDP expects from the state and local entities, Colorado will make the necessary revisions to our compliance monitoring policies and procedures manual, and provide training to our juvenile justice partners.

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

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
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
During each inspection verify for separation through facility layout, policies, and practices	Compliance Monitor	On-going	Updated sight and sound checklist in Facility File

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

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 yearend total number of violations to law enforcement agencies	Compliance Monitor DCJ Administrative Asst.	November/December	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 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	OJJDP Compliance Monitor Juvenile Justice Specialist	On-going	Meeting compliance with the new Rule requirements.

before we are able to train our law enforcement partners.			

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 Specialist Compliance Monitor	Quarterly meetings	Updates reflected in SAG minutes
Convene the SAG Compliance subcommittee twice a year to discuss issues and strategies	Juvenile Justice Specialist Compliance 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 Specialist Compliance 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.

Information on the SAG's proposed involvement.
Colorado had 0 violations in 2016. Reports are provided at each SAG meeting but due to the low number of violations, SAG involvement is limited.

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.

OJJDP recommends that this plan include a trend analysis of the state's jail removal compliance rates in preceding years (i.e., are rates increasing or decreasing and why). In addition, OJJDP recommends that the plan discuss the nature of jail removal violations the state has typically experienced (e.g., youth who commit status offenses detained or confined for any length of time in adult facilities, accused juvenile delinquents held in excess of the 6-hour rule, use of the rural exception found at 42 U.S.C. 5633(a)(13)(B)). The state's plan to achieve or maintain compliance with jail removal should relate directly to this analysis of violations. Areas to address include:

• Provide a strategy to achieve and maintain compliance, including a description of any state or local laws that impact compliance. 54 OJJDP-2017-10943

• Information on how the designated state agency and SAG will work together to address those circumstances in which jail removal violations have tended to occur, if relevant.

• Any changes that could impact the state's compliance (e.g., pending or new legislation, staffing changes).

• 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 have occurred.

• An overall timetable for achieving compliance.

• Information on the SAG's proposed involvement.

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).

All states that have previously received OJJDP approval to use the rural exception for any facility must complete the Rural Removal Exception Certification form (Appendix E) certifying that approved facilities continue to meet the required conditions. The juvenile justice specialist should sign this form, and the state should submit it with its grant application.

States may submit requests for newly identified facilities at any time to OJJDP's State Program Manager or to OJJDP's Core Protections Division. OJJDP must approve any use of the rural exception for each new facility prior to use, except in life-threatening weather conditions as described in the JJDP Act at 42 U.S.C. 5633(a)(13)(B)(ii)(III).

Colorado's Plan for Removal of Youth from Adult Jails and Lockups

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 2007 and ending in 2016. Please note, data for 2016 is from October 2015 – September 2016.

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Accused delinquents held over 6 hours	20	13	12	13	9	4	2	9	3	12
Accused delinquents hold 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
TOTAL VIOLATIONS	**69**	**59**	**52**	**59**	**18**	**22**	**19**	**37**	**14**	**12**
Jail Removal RATE of Compliance	**5.8**	**5.0**	**4.4**	**4.9**	**1.47**	**1.80**	**1.55**	**3.02**	**1.76**	**1.67**

States that have a rate that is above 0 and is at or below 9.0 per 100,000 juveniles are deemed to be in compliance.

Nature of violations

Colorado has been in compliance with Jail Removal since 1993 and continues to be in compliance with a rate of 1.67 in 2016. Colorado had 12 violations in 2016 and this number represents less than .5% of the total number of youth held securely. 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. Juvenile Holding Cell logs are located next to or near the holding cells in each facility. DCJ is confident that its data is complete.

Provide a strategy to maintain compliance, including a description of any state of local laws that impact compliance.

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.

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.

Any changes that could impact the state's compliance (e.g., pending or new legislation, staffing changes).

New JJDPA Rule changes at OJJDP went into effect January 20, 2017. However, the new White House Administration imposed a 60 day hold on implementing any new changes so the new Rules are now tentatively scheduled to go into effect March 20, 2017. Colorado is waiting for further guidance and training from OJJDP regarding implementation of the new "Detained and Confined" definition.

The rule also 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. Colorado law, CRS 19-2-508 (4) (g) Prohibition on Scared Straight type of programming, will still prohibit such programming.

Once it is clear what OJJDP expects from the state and local entities and training is provided, Colorado will make the necessary revisions to our compliance monitoring policies and procedures manual, and provide training to our juvenile justice partners.

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

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

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

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 Monitor DCJ 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 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.	OJJDP Compliance Monitor Juvenile Justice Specialist	On-going	Meeting compliance with the new Rule requirements.

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 Specialist Compliance Monitor	Quarterly meetings	Updates reflected in SAG minutes
Convene the SAG Compliance subcommittee twice a year to discuss issues and strategies	Juvenile Justice Specialist Compliance 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 Specialist Compliance Monitor	Once a year during the SAG retreat	Barriers and strategies included in annual file on barriers and strategies

Information on the SAG's proposed involvement

Colorado's Jail Removal Rate of Compliance is only 1.67. Reports are provided at each SAG meeting; due the low number of Jail Removal violations SAG involvement is limited.

Rural Removal Exception

Colorado does not use the Rural Exception despite the fact that several counties would qualify for the Rural Exception.

B. Plan for compliance monitoring for the first three core requirements of the JJDP Act.

Pursuant to the JJDP Act at 42 U.S.C. 5633(a)(14), the state must provide for an adequate system of monitoring jails, lockups, detention facilities, correctional facilities, and non-secure facilities to ensure that the core protections are met.

States must provide a plan describing how their system for compliance monitoring meets each of the following 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

(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. If this information is included in the above-referenced policies and procedures manual, provide the page or appendix number.

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." See also the Policy and Procedure Manual pages 18-20.

(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. If this information is included in the above- referenced policies and procedures manual, provide the page or appendix number.

The process used to develop the yearly timeline is contained in the Policy and Procedure Manual, pages 14-17. Those pages also contain the yearly timeline and tasks. The 2017 Monitoring Timetable is attached.

(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. If an agency other than the designated state agency monitors, describe how that agency maintains accountability for compliance with this requirement. If this information is included in the policies and procedures manual, provide the page number where it can be found.

Colorado's violation policy, procedure and form are contained in the 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).

(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. If an up-to-date description of barriers and strategies is included in the policies and procedures manual, provide the page number where it can be found.

Colorado's process to annually identify Barriers and Strategies is addressed in Policy 1.1 Compliance Monitoring Barriers and Strategies, page 8. During the annual SAG retreat final data and violations is 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 2016, and continuing into 2017, Colorado Barriers and Strategies include:

Barrier: Susan Davis, Colorado's long time JJDPA compliance monitor retired on June 30, 2016 and DCJ hired Mona Barnes as her replacement.

Strategy: Susan provided trained before her departure to Mona on the JJDPA regulations, laws, and procedures on compliance monitoring. Mona will participate in all of OJJDP's compliance monitor's conference calls (when they resume) and will attend the OJJDP conference on compliance monitoring (when it is scheduled).

Barrier: Another barrier has been the lack of guidance and clarity from OJJDP on the proposed rule changes to JJDPA. No Guidance Manual was available on the web until the very end of 2016. The proposed new changes to detained and confined would have required significant changes to how JJDPA was being implemented in Colorado so we were trying to prepare.

Strategy: Now that part of the proposed new rules has been finalized, but delayed, Colorado will work to ensure proper implementation once the new effective date is determined. Once it is clear what OJJDP expects from the state and local entities and training is provided, Colorado will make the necessary revisions to our compliance monitoring policies and procedures manual. DCJ will then ensure that proper training is provided to our partners and ensure that we continue to meet compliance requirements.

(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. Provide a discussion of how state terms differ from those provided in the JJDP Act. If this information is included in the policies and procedures manual, provide the page number where it can be found. In addition, the state must certify that where state definitions differ from federal definitions in the monitoring process, federal definitions will be used 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. If a detailed

description of the state's identification process is included in the policies and procedures manual, provide the page number where it can be found.

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.

(8) Classification of Monitoring Universe. States must classify all facilities in the state to determine which ones should be considered a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or non-secure facility. 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. If a detailed description of the state's classification process is included in the policies and procedures manual, provide the page number where it can be found. 56 OJJDP-2017-10943

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.

(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). If a detailed description of the state's inspection process is included in the policies and procedures manual, provide the page number where it can be found.

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

(10) Data collection and verification. States must collect data from facilities and report the data to OJJDP. If the facility data are self-reported by the facility or are collected by an agency other than the state agency receiving federal grant funds, the plan must describe a statistically valid procedure to verify the reported data and describe the implementation of that verification procedure. Onsite data verification should involve the review of data that a facility self-reports, including a review of the facility's admissions records and/or booking logs. If a detailed description of the state's process for data collection and verification is included in the policies and procedures manual, provide the page number where it can be found.

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

DCJ has statutory authority to collect data on all youth held securely in jails, lockups and juvenile detention or correctional facilities. DCJ annually collects Juvenile Holding Cell logs at all jails and lockups classified as being secure. 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. At that time the method of collecting information on the Juvenile Holding Cell log is discussed and cases with missing information are researched. In addition, prior to counting an entry as a violation it is verified personally by the compliance monitor.

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.

No other agency, other than the DSA, which is DCJ, collects and verifies data on juveniles held securely in Colorado. Colorado does not contract with any public or private agency to perform the monitoring function.