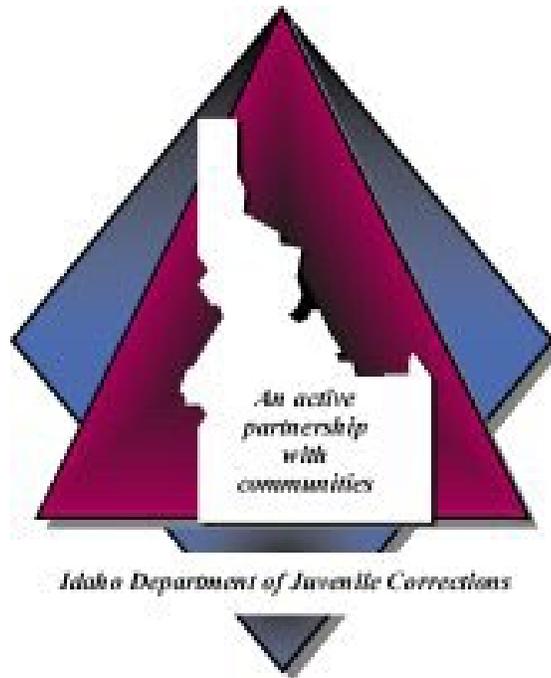


# State of Idaho Compliance Monitoring Manual



February 2022

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## I. Introduction

Title II, Part B, of the [Juvenile Justice and Delinquency Prevention Act](#) (JJDP A) sets out detailed requirements that a state must satisfy in order to be eligible to receive funding under the Act's Formula Grants Program, including the submission of a state plan that satisfies the requirements set forth at 34 U.S.C. § 11133(a)(1)-(33). Under the Act, "[i]n accordance with regulations which the Administrator shall prescribe, such plan shall," among other things—

...provide for an effective system of monitoring jails, lock-ups, detention facilities, and correctional facilities to ensure that the core requirements are met, and for annual reporting of the results of such monitoring to the Administrator[.] [34 U.S.C. § 11133(a)(14)]

This manual addresses the core requirements found in 34 U.S.C. §§ 11133(a)(11), (12), and (13):

- Deinstitutionalization of Status Offenders (DSO)
- Removal of juveniles from adult jails and lockups (Jail Removal)
- Separation of juveniles from adult inmates in institutions (Separation)
- Section 223(a)(11)(B), (Removal of Juveniles Prosecuted as Adults from Adult Facilities)

The racial and ethnic disparities core requirement found at 34 U.S.C. § 11133(a)(15) is not discussed in this manual as states do not monitor individual facility for compliance with this core requirement.

Detailed information on each of the core requirements at 34 U.S.C. § 11133(a)(11), (12), and (13) with direct statutory and regulatory references can be found in section II, *Compliance with the Core Requirements*.

## II. Compliance with the Core Requirements

This section describes the core requirements at 34 U.S.C. § 11133(a)(11), (12), and (13).

### II-A. Deinstitutionalization of Status Offenders (DSO)

Pursuant to [34 U.S.C. § 11133\(a\)\(11\)\(A\)](#), juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult (status offenders), or juveniles who are not charged with any offense and are unauthorized immigrants or are alleged to be dependent, neglected or abused (non-offenders), shall not be placed in secure detention facilities or secure correctional facilities. Compliance with the DSO requirement has been achieved when a state can demonstrate that no such juveniles were placed in secure detention and correctional facilities, or when the state's DSO rate falls below the established threshold.

**YOUTH HANDGUN SAFETY EXCEPTION** – Under [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(I\)](#), the DSO requirement does not apply to juveniles charged with or found to have committed a violation of the Youth Handgun Safety Act (18 U.S.C. § 922(x)), or a similar state law, which prohibits a person younger than 18 from possessing a handgun. Such juveniles may be placed in secure detention or secure correctional facilities without resulting in an instance of noncompliance with the DSO requirement.

**VALID COURT ORDER EXCEPTION** – The Valid Court Order (VCO) exception at [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(II\)](#) provides that accused or adjudicated status offenders, and juveniles found to have violated a valid court order based on their status as a juvenile, may be placed in a secure juvenile detention or correctional facility. A juvenile who has committed a violation of a court order that is not related to his status as a juvenile (i.e., an offense with which an adult may be charged, such as failure to appear) is neither a status offender nor nonoffender and the DSO requirement does not apply (see Section III.E. Adherence to Federal Definitions for the definition of "valid court order").

To demonstrate compliance with the statutory requirements governing the VCO exception, states must have a process in place to verify whether court orders used to place status offenders in juvenile detention centers (including juveniles who violate valid court orders related to their status as a juvenile), meet the following requirements (as set forth at [34 U.S.C. § 11133\(a\)\(23\)](#)):

- a. An appropriate public agency shall be promptly notified that the status offender is held in custody for violating a valid court order.
- b. An authorized representative of that agency shall interview within 24 hours, in person, the status offender who is being held.
- c. Within 48 hours during which the status offender is held:
  - The agency representative shall submit an assessment to the court that issued the order regarding the immediate needs of the status offender.
  - The court shall conduct a hearing to determine whether (1) there is reasonable cause to believe that the status offender violated the order and (2) the appropriate placement of the status offender pending disposition of the alleged violation.

- If the court determines that the status offender should be placed in a secure detention facility or correctional facility for violating the court order, (1) the court must issue a written order that:
  - ✓ Identifies the valid court order that has been violated;
  - ✓ Specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order;
  - ✓ Includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile;
  - ✓ Specifies the length of time, not to exceed 7 days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility; and
  - ✓ May not be renewed or extended; and
- (2) The court may not issue a second or subsequent order described [in the first bullet] relating to a status offender unless the status offender violates a valid court order after the date on which the court issued the first court order.
- d. There are procedures in place to ensure that any status offender held in a secure detention facility or correctional facility pursuant to a [valid] court order [described in this section] does not remain in custody longer than 7 days or the length of time authorized by the court, whichever is shorter.

More information on Idaho's process for collecting data for DSO and verifying that valid court order meet all the statutory requirements can be found in section III-I, *Compliance Data Collection and Verification*.

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

## II-B. Removal of Juveniles Prosecuted as Adults from Adult Facilities

Under [Section 223\(a\)\(11\)\(B\)](#), on or after December 21, 2021, a juvenile who is charged as an adult cannot be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure adult facility, except as provided below.

A juvenile charged as an adult may be detained in an adult jail or lockup if one of the exceptions at 34 U.S.C. § 11133(a)(13) applies (Six-Hour Exception, Rural Exception, Travel Conditions Exception, and Conditions of Safety Exception). See Section II.D. Removal of Juveniles From Adult Jails and Lockups.

In addition, pursuant to section 223(a)(11)(B), a court may determine after a hearing, and in writing, that it is in the interest of justice to permit a juvenile to be detained in a jail or lockup for adults or have sight or sound contact with adult inmates in a secure facility. If the court makes an initial determination that it is in the interest of justice to detain a juvenile under those circumstances, the court must hold a hearing at least every 30 days (at least every 45 days in a rural jurisdiction) to review whether it is still in the interest of justice to continue to detain the juvenile in an adult jail or lockup or such that he had contact with adult inmates in a secure facility. In determining whether it is in the interest of justice to detain (or continue to detain) a juvenile, the court must consider:

1. the age of the juvenile;
2. the physical and mental maturity of the juvenile;
3. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
4. the nature and circumstances of the alleged offense;
5. the juvenile's history of prior delinquent acts;
6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
7. any other relevant factor(s)

The maximum amount of time that a juvenile charged as an adult may be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure facility is 180 days, unless the court determines, in writing, that there is good cause for such an extension, or the juvenile expressly waives this 180-day limit.

More information on Idaho's process for collecting data regarding this requirement and verifying that all of the Section 223(a)(11)(B) requirements have been met can be found in section III-I, *Compliance Data Collection and Verification*.

## II-C. Separation of Juveniles From Adult Inmates

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

In order to comply with the separation requirement, states must also have in effect a policy that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, to have been trained and certified to work with juveniles.

**JUVENILES WHO ARE TRANSFERRED, CERTIFIED, OR WAIVED TO CRIMINAL COURT –** Juveniles who have been transferred, certified, or waived to criminal court, and are therefore charged as adults, may not be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure facility, unless it is pursuant to one of the exceptions at 34 U.S.C. § 11133(a)(13)(B).

However, a court may determine that it would be in the interest of justice to do so consistent with [34 U.S.C. § 11133\(a\)\(11\)\(B\)](#). See Section 223(a)(11)(B) above, which applies to juveniles charged as adults. If a juvenile who has been charged as an adult has been convicted and sentenced for the criminal offense, however, Section 223(a)(11)(B) no longer applies.

**JUVENILES WHO REACH THE AGE OF FULL CRIMINAL RESPONSIBILITY AFTER ARREST OR ADJUDICATION –** Individuals who commit an offense while still a juvenile and who have reached the age of full criminal responsibility only after arrest or adjudication, but remain under juvenile court jurisdiction, are not adult inmates and need not be separated from juveniles until they have reached the state's maximum age of extended juvenile jurisdiction. By contrast, individuals who are under juvenile court jurisdiction and who subsequently commit a separate offense after reaching the age of full criminal responsibility, are adult inmates, who must not have sight or sound contact with juvenile detainees.

**PROGRAMS IN WHICH JUVENILES HAVE SIGHT OR SOUND CONTACT WITH ADULT INMATES –** Programs in which juveniles have sight or sound contact with adult inmates in an attempt to educate juveniles about life in prison and/or deter them from delinquent or criminal behavior (such as Scared Straight or shock incarceration programs) may result in instances of noncompliance with the separation (and possibly DSO and jail removal) requirements. Whether these programs result in instances of noncompliance will depend on the specific manner in which the program operates and the circumstances of the juveniles' participation in such a program.

Instances of noncompliance with the separation requirement may only occur if a juvenile's participation in such a program is pursuant to law enforcement or juvenile or criminal court authority. In addition, for violations to occur, the juvenile must not be free to leave or withdraw from participation, even if her/his parent/guardian has not consented to, or wishes to withdraw consent for, the juvenile's participation.

More information on Idaho's process for collecting data regarding this requirement and verifying that all of the separation requirements have been met can be found in section III-I, *Compliance Data Collection and Verification*.

## II-D. Removal of Juveniles From Adult Jails and Lockups

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

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

**SIX-HOUR EXCEPTION** – The jail removal requirement at [34 U.S.C. § 11133\(a\)\(13\)\(A\)](#) allows the detention or confinement in an adult jail or lockup of juveniles accused of delinquent offenses (i.e., offenses that would be a criminal offense if committed by an adult), under the following circumstances:

- a. A juvenile accused of a delinquent offense may be detained for no more than 6 hours for the purposes of processing or release or while awaiting transfer to a juvenile facility.
- b. A juvenile who has been adjudicated as delinquent may not be detained in an adult jail or lockup, for any length of time, without resulting in an instance of noncompliance with the jail removal requirement.

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

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

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

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

More information on Idaho's process for collecting data regarding this requirement and verifying that all jail removal requirements have been met can be found in section III-I, *Compliance Data Collection and Verification*.

## III. Elements of an Effective System of Monitoring

### III-A. Summary of Elements

Date Issued: November 2009

Last Revision: February 2022

States participating in the Formula Grants Program must provide for an effective system of monitoring jails, lockups, detention facilities, and correctional facilities to ensure that they meet the core requirements, pursuant to the monitoring and reporting requirement at [34 U.S.C. § 11133\(a\)\(14\)](#). The state's monitoring system, if it is to comply with the statutory and regulatory monitoring requirements, must include all jails, lockups, secure detention facilities, and secure correctional facilities. There are eight elements of an effective system of monitoring. For each of the following elements, the state should include a description of its specific policies and procedures:

1. Compliance Monitoring Policies and Procedures
2. Monitoring Authority
3. Violation Procedures
4. Adherence to Federal Definitions
5. Identification of the Monitoring Universe
6. Classification of the Monitoring Universe
7. Inspection of Facilities
8. Compliance Data Collection and Verification

## III-B. Compliance Monitoring Policies and Procedures

Date Issued: November 2009

Last Revision: February 2022

### Overview

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)](#), one of the required elements of an effective system of monitoring is that states must describe their policies and procedures for monitoring for compliance with the core requirements. The purpose of this manual is to satisfy the policies and procedures element, as well as to describe how Idaho satisfies the following additional elements required for an effective system of compliance monitoring (see Section III of this manual).

### Procedures

#### **Review and Update**

The Compliance Monitoring Manual shall be reviewed annually by the Compliance Monitor and the Juvenile Justice Specialist, and updated as needed. The manual shall also be reviewed for additional modifications after the issuance of any revised regulations or guidelines by the Office of Juvenile Justice and Delinquency Prevention.

#### **Manual Location**

The electronic file is titled "Compliance Monitoring Manual" and saved in a folder titled "Compliance Monitoring Manual" within the IDJC Data Center. The Compliance Monitor has the responsibility to ensure that all copies are the latest revision. The manual is also made available for review on the Idaho Department of Juvenile Corrections website at <http://www.idjc.idaho.gov/community-operations/planning-and-compliance/>.

## III-C. Monitoring Authority

Date Issued: November 2009  
Last Revision: February 2022

### Overview

States are required under [34 U.S.C. § 11133\(a\)\(1\) and \(2\)](#) to designate an agency (referred to as the Designated State Agency, or the DSA) and provide satisfactory evidence that the DSA has authority, by legislation, if necessary, to administer the Title II Formula Grants Program, including monitoring for compliance with the deinstitutionalization of status offenders (DSO), Section 223(a)(11)(B), separation, and jail removal requirements.

The Idaho Department of Juvenile Corrections (IDJC) serves as the Designated State Agency in Idaho, responsible for administering the Title II Formula Grants Program. The IDJC Community Operations and Programs Services, Planning & Compliance Unit is responsible for monitoring compliance with the core protections of the JJDPA. Under the supervision of the Juvenile Justice Specialist, a Compliance Monitor position exists to implement this monitoring responsibility.

### Procedures

Idaho Code Section 20-504(15) provides IDJC with authority to apply for, receive and expend federal funds. Implicit in this section is the authority for IDJC to comply with funding guidelines. Idaho employs this authority to monitor adult facilities for compliance with the JJDPA core requirements. The mechanism to enforce the authority is through the development and maintenance of relationships with facility administrators and professional associations including the Idaho Chiefs of Police Association, Idaho Sheriff's Association, and the Idaho Association of Counties Juvenile Justice Administrators.

In addition to the authority implied as the DSA, IDJC's authority for Compliance Monitoring is derived from the following sources:

#### **Idaho Code 20-503.**

*DEPARTMENT OF JUVENILE CORRECTIONS CREATED — APPOINTMENT OF DIRECTOR  
— POWERS AND DUTIES OF DEPARTMENT.*

(2) The department shall be under the control and supervision of a director, who shall be appointed by the governor, with the advice and consent of the senate. The director shall exercise all of the powers and duties necessary to carry out the proper administration of the department and may delegate duties to employees and officers of the department. The director shall have the authority to employ an attorney or attorneys to provide legal services to the department and such managers, assistants, clerical staff and other employees necessary to the proper functioning and administration of the department.

#### **Idaho Code 20-504.**

##### *DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS.*

(3) The department is responsible for all juvenile offenders committed to it by the courts of this state for confinement. The department shall also establish minimum standards for detention, care and certification of approved detention facilities based upon such standards.

(4) The department shall establish and administer all secure residential facilities including all state juvenile correctional centers.

#### **Idaho Code 20-504A.**

##### *STATE JUVENILE CORRECTIONAL CENTERS — PURPOSES — POWERS AND DUTIES OF THE DEPARTMENT AND THE DIRECTOR.*

(2) The department shall administer and provide general oversight of all state juvenile correctional centers and any other secure or non-secure facilities holding juvenile offenders committed to it as required by the juvenile corrections act.

#### **IDAPA 05.01.02**

##### *RULES AND STANDARDS FOR SECURE JUVENILE DETENTION CENTERS.*

200. Inspection Provisions. The Idaho Department of Juvenile Corrections or its designee shall have the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules.

01. Annual Visits. Each juvenile detention center shall be subject to announced or unannounced visits by department representatives on at least an annual basis.

02. Review of Logs, Records, Policy and Procedure Manuals, Memorandums and Reports. All logs, records, policy and procedures manuals, memorandums, and incident and other reports shall be available for review excluding medical records, personnel records and personnel action reports. Idaho Department of Juvenile Corrections' representatives shall be allowed to observe and interview juvenile offenders and staff concerning any matter pertaining to these rules. Department representatives shall further have access to all parts of the detention center for the purpose of inspecting the physical plant.

#### **IDAPA 05.01.04**

##### *UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES.*

100. Review Provisions. The Idaho Department of Juvenile Corrections will collaborate with the courts and the counties to visit and review all juvenile probation departments to assess compliance with these rules. A written report of each review will be prepared by the Department and provided to the appropriate juvenile probation administrator with copies to the county commissioners and the administrative judge.

#### **Idaho Juvenile Justice Commission, Executive Order 2019-12**

2. The Commission shall perform the following functions:

d. Ensure compliance with the core protections of the JJDPA by jurisdictions with public authority in Idaho through education, technical assistance, monitoring and remedial actions for violations.

## III-D. Violation Procedures

Date Issued: November 2009

Last Revision: February 2022

### Overview

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(iii\)](#), the state must specify how it receives, investigates, and reports complaints of instances of noncompliance with the DSO, Section 223(a)(11)(B), separation, and jail removal requirements.

### Procedures

The Compliance Monitor is the primary agent to receive, investigate, and respond to alleged compliance violations throughout the state. While there is no formal policy for receiving data, all data obtained of juveniles detained or confined will be reviewed by the Compliance Monitor to determine if there were any instances of noncompliance with the DSO, Section 223(a)(11)(B), separation, and jail removal requirements. After investigation, any instances of noncompliance will be reported in the annual compliance monitoring report.

#### **Process for violations discovered in data review and/or site visits**

The process for violations discovered through data review and/or onsite visits includes the following items:

1. All alleged reports of compliance violations will be turned over to the Compliance Monitor.
2. Violations are noted in the site visit report (if applicable).
3. The Compliance Monitor and the facility administrator or their designee will discuss the nature of violations and possible remedies.
  - a. Should the Compliance Monitor and facility administrator resolve the issues immediately and the possibility of violations no longer exist, no further action will be taken. The Compliance Monitor may schedule additional visits or periodic requests for information.
  - b. If the situation cannot be resolved by both parties the Compliance Monitor will proceed with steps 4 – 6.
4. A remedial action plan is developed by the Compliance Monitor and facility administrator. Written verification of the plan is provided to the facility administrator and a copy placed in the facility file.
5. The Compliance Monitor will provide technical assistance as needed and follow-up on the progress of the plan.
6. If the goals of the action plan are not being met, the Compliance Monitor will continue to pursue additional actions, incentives and/or sanctions. Options available to the Compliance Monitor include:
  - a. Additional assistance or training to facility staff;
  - b. Funding for needed equipment or supplies;

- c. Sanction current or future funding (grants or state funds);
- d. Report issues to the liability insurance carrier for the jurisdiction;
- e. Report issues to Idaho Department of Juvenile Corrections Director and the Idaho Juvenile Justice Commission for further action.

**Process for Investigating and Responding to Reported Compliance Violations**

The process to receive, investigate and respond to compliance violation reports includes the following items:

1. All reports of violations will be turned over to the Compliance Monitor. The report may be received through an independent source or from another agency.
2. The Compliance Monitor will thoroughly investigate any alleged violation.
  - a. The investigation will involve a review of the documentation at the facility to confirm that a violation occurred.
  - b. All violations will be discussed with the facility administrator or contact to explain why they were deemed to be violations.
3. The Compliance Monitor shall complete a Compliance Violation letter/email describing the violation.
  - A copy will be delivered to the facility administrator or designee.
  - A copy of the letter will be placed in the individual facility's file.

The following information is included in the Compliance Violation Letter:

Agency in Violation:	Name of agency
Agency Address:	Agency address
Agency Administrator:	Sheriff, Chief, Director, Administrator or Contact
Date of Violation(s):	Date the violation(s) occurred
Violation Narrative:	Describe the violation. "On ( <u>date</u> ), juvenile was detained or confined from ( <u>hour</u> ) until ( <u>hour</u> ) for ( <u>offense</u> )."
Reason for Violation:	Describe why it is a violation and what core requirement(s) was/were violated.
Investigation Date:	Date logs were reviewed.
Compliance Monitor:	Compliance Monitor name and phone number
Suggested Follow-Up:	Describe what follow-up action is required or requested. It may be a memo to all officers, a modification in handling juveniles, a reprimand, a need for the Compliance Monitor to provide technical assistance, etc.
Date This Letter Sent:	Date the compliance violation form was completed

4. The Compliance Monitor will develop a remedial action plan in collaboration with the facility administrator.
5. Remedial Action Plans are submitted to the Juvenile Justice Specialist for approval.
6. The Compliance Monitor may perform follow-up onsite visits to facilities where compliance is a problem. The purpose of the onsite visits is to:
  - a. develop and maintain positive relationships;

- b. review status of progress on the action plan;
  - c. review juvenile holding logs and records; and
  - d. provide training and technical assistance.
7. If the facility achieves compliance within the agreed upon timeline the Compliance Monitor will provide the facility administrator with written verification.
8. If the facility fails to achieve compliance within the agreed upon timeline, the Compliance Monitor will continue to pursue additional actions, incentives and/or sanctions. Options available to the Compliance Monitor include:
- a. Additional assistance to facility staff;
  - b. Funding for equipment or supplies;
  - c. Sanction current or future funding (grants or state funds);
  - d. Report issues to the liability insurance carrier for the jurisdiction;
  - e. Report issues to Idaho Department of Juvenile Corrections Director and the Idaho Juvenile Justice Commission for further action.

See *Attachment A* for a sample compliance violation letter.

Records of all violations, actions, incentives and sanctions will be permanently maintained in the facility files.

## III-E. Adherence to Federal Definitions

Date Issued: November 2009

Last Revision: February 2022

### Overview

Definitions that states use for key juvenile and criminal justice terms sometimes differ from the “federal” definitions. The federal definitions, for purposes of compliance monitoring, are only those provided in the JJDPa at [34 U.S.C. § 11103](#) the Formula Grants Program Regulation at [28 C.F.R. § 31.304](#) and [An Overview of Statutory and Regulatory Requirements for Monitoring Facilities for Compliance With the Deinstitutionalization of Status Offenders, Separation, and Jail Removal Provisions of the Juvenile Justice and Delinquency Prevention Act.](#)

The state of Idaho will document and ensure that all state definitions that differ from federal definitions have been identified and addressed in the monitoring process. While monitoring for compliance with the core requirements, federal definitions will be used in any instance in which state definitions differ from federal definitions.

### Procedures

1. The Compliance Monitor shall review Federal and State definitions annually as a component of the update of this manual.
2. The Compliance Monitor shall update definitions as needed.
3. The Juvenile Justice Specialist shall review and approves changes.

See *Attachment B* for a list of all applicable definitions.

## III-F. Identification of the Monitoring Universe

Date Issued: November 2009

Last Revision: February 2022

### Overview

The reporting of instances of noncompliance with the core requirements is facility-based and therefore the "monitoring universe" includes all facilities within the state (public and private) that are jails and lockups for adults (including court holding facilities), secure detention facilities, and secure correctional facilities (including adult prisons), as listed at [34 U.S.C. § 11133\(a\)\(14\)](#). These are the facilities in which instances of noncompliance with the core requirements may occur. States must ensure that they identify and include all of these facilities as part of the monitoring universe.

### Procedures

It is the duty of the Compliance Monitor to identify and update all facilities in the monitoring universe. A Compliance Monitoring Universe master document is compiled and maintained by the Compliance Monitor. The electronic file titled "Compliance Monitoring Universe" will be saved in the IDJC Data Center.

Facilities in the Monitoring Universe must be classified according to the four types of facilities listed in [34 U.S.C. § 11133\(a\)\(14\)](#): adult jails, adult lockups, secure detention facilities, and secure correctional facilities. Facilities in the Monitoring Universe should be included only if they meet the definition of one of those facility types. See *Attachment B* for a list of all applicable definitions.

The monitoring universe includes both residential and nonresidential facilities, as the monitoring requirement under [34 U.S.C. § 11133\(a\)\(14\)](#) is not limited to residential facilities.

Mental health and substance abuse treatment facilities will not be included in the monitoring universe unless they meet the definition of "secure detention facility" at [34 U.S.C. § 11103\(12\)](#) or "secure correctional facility" at [34 U.S.C. § 11103\(13\)](#).

States are not required to monitor nonsecure facilities and they are therefore not included in the monitoring universe. In order to ensure that the monitoring universe includes all facilities that meet the statutory definition of "jail or lockup for adults," ([34 U.S.C. § 11103\(22\)](#)) "secure detention facility," ([34 U.S.C. § 11103\(12\)](#)), and "secure correctional facility," ([34 U.S.C. § 11103\(13\)](#)), however, nonsecure facilities will still be visited to monitor for any change from nonsecure to secure.

Any public facility owned or operated by a state (or a jurisdiction located in the state) will be included in the monitoring universe.

When a state contracts with a private facility within the state's own borders, that facility must be included within the state's monitoring universe.

## **Establishing and Updating the Master List**

1. By March 1 of each calendar year, the Compliance Monitor will provide each District Council a list of their current known monitoring universe.
2. At the next scheduled council meeting, each District Council will identify any new facilities that may need to be included in the monitoring universe and confirm that the existing facilities are still in operation.
  - The District Council inform the Compliance Monitor of any changes by May 1.
3. The Compliance Monitor will make any updates needed to the monitoring universe.
4. If new facilities are identified in the monitoring universe the Compliance Monitor will add the facilities to the master list and include those facilities for future monitoring.
  - The Compliance Monitor will visit new facilities at the earliest possible time to establish classification.
  - If the Compliance Monitor is unable to visit the facility within a week of notification of the new facility, the local District Liaison will be asked to conduct a visit within the week to establish classification.
  - A certification for classification form can also be sent to the facility for them to self-report if a visit cannot be completed in a timely manner. See *Attachment C* for a sample Classification Certification form.

## III-G. Classification of the Monitoring Universe

Date Issued: November 2009

Last Revision: February 2022

### Overview

States are required under [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(B\)](#) to classify each facility in the monitoring universe to specify whether it is a (1) a jail or lockup for adults ([34 U.S.C. § 11103\(22\)](#)); (2) secure detention facility ([34 U.S.C. § 11103\(12\)](#)); or (3) secure correctional facility ([34 U.S.C. § 11103\(13\)](#)).

The Compliance Monitor will continually classify and/or reclassify all facilities listed in the monitoring universe based on on-site inspections.

### Procedures

A Compliance Monitoring Universe master document is compiled and maintained by the Compliance Monitor. The electronic file titled "Compliance Monitoring Universe" will be saved in the IDJC Data Center. Because the monitoring universe is constantly evolving, a copy of the monitoring universe will not be included in this manual however the Compliance Monitor can be contact for a current list of facilities in the universe.

Facilities must be classified according to the four types of facilities listed in [34 U.S.C. § 11133\(a\)\(14\)](#): adult jails, adult lockups, secure detention facilities, and secure correctional facilities. The Compliance Universe must indicate which of the facility types each facility falls within. In addition, each facility will be listed as either residential or nonresidential, and whether the facility is juveniles-only, adults-only, or juveniles and adults.

The classification of facilities is an on-going process. Facility classification will be verified through an on-site inspection by the Compliance Monitor to ensure the classification is true and accurate, thereby ensuring an effective system of monitoring. See the *Inspection of Facilities* section of this manual for information on verifying the facility classification.

Any new facilities in the monitoring universe will be visited by the Compliance Monitor to establish classification at the earliest possible time. If the Compliance Monitor is unable to visit the facility within a week of notification of the new facility, the local District Liaison will be asked to conduct a visit within the week to establish classification. A certification for classification form can also be sent to the facility for them to self-report. See *Attachment C* for a sample Classification Certification form.

Reported changes to the classification of existing facilities will be verified by the Compliance Monitor, and updated on the Compliance Monitoring Universe as needed.

### **Individual Facility Files**

The Compliance Monitor shall maintain a Facility File for each facility in the Monitoring Universe. Files will be maintained electronically and may include facility information to help justify their classification, facility layout, holding log information, date of last inspection, and any correspondence with the facility.

## III-H. Inspection of Facilities

Date Issued: November 2009

Last Revision: February 2022

### Overview

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(C\)](#), inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping.

One hundred percent (100%) of all secure facilities (adult, juvenile, and collocated) in the monitoring universe shall be inspected by the Compliance Monitor within a 3-year period.

### Procedures

The Compliance Monitor will be responsible for conducting all inspections of facilities, to include adult jails, adult lockups, secure detention facilities, and secure correctional facilities.

There are four basic reasons to inspect facilities:

1. to develop and maintain positive relationships with facility staff;
2. to confirm the classification;
3. to assess the separation levels at all points in the facility; and
4. to determine if the record keeping system is sufficient to collect the necessary data to determine compliance with the DSO, Section 223(a)(11)(B), separation, and jail removal requirements.

### **Guidelines for Determining Facility Inspections**

All facilities subject to inspection may be subject to data collection and data verification if juveniles are being detained or confined. All secure facilities will be inspected at least once every three years, with collocated facilities and juvenile detention facilities inspected once a year. Additional inspections may be conducted as the result of an emergent issue requiring verification.

The Compliance Monitor will schedule onsite visits directly with facility staff or through District Liaisons. Unscheduled inspections may occur as needed.

### **Facility Inspection Activities**

For all scheduled inspections, the agency administrator will be contacted to schedule an appointment. The inspection process will be explained as well as the reasons behind the core protections.

During the on-site inspection, the Compliance Monitor will ask questions to confirm the categories of classification.

1. Is the facility a juvenile facility (used exclusively for juveniles), adult facility (used exclusively for adults), or a facility used for both juveniles and adults?
2. Is the facility secure or non-secure (using the federal definition for a secure facility)?
3. Is the facility residential or non-residential (using the federal definition for a residential facility)?

The Compliance Monitor will tour the facility to confirm the information given and to verify if there are any secure or residential areas. The Compliance Monitor will walk throughout the facility as if they were a juvenile taken into custody, and ask questions such as:

- Where do juveniles enter the facility?
- Who escorts them?
- Is there a non-secure booking area?
- Where are other non-secure areas?
- How are juveniles processed?
- When are adult inmates in this area?
- Is time-phasing used?
- Where are the secure areas they may be held?
- Where are adult inmates held?
- Are adult inmates used in or around the facility and if so, for what?

In any instance where sight and sound separation may be an issue, the Compliance Monitor will ask someone from the facility to walk into an adjoining area to test for sight and sound. The Compliance Monitor should obtain policies and procedures on how the facility ensures sight and sound separation.

After completing the inspection, the Compliance Monitor will explain to the agency administrator how the facility has been classified and fully explain the core protections as they pertain to the facility. Any violations shall be discussed, and remedial action plans developed if needed. The Compliance Monitor shall also ask if the facility has any needs, and offer training/technical assistance when applicable.

See *Attachment D* for an example of a facility inspection form.

### **Data Collection**

To determine whether sufficient data is maintained to show compliance with the core requirements, the following information shall be collected on all juveniles detained or confined:

- Name or Identification Number
- Date of Birth
- Gender
- Race/Ethnicity
- Offense (most serious) for which the juvenile is being held
- Location being held
- Date and time placed IN a secure setting
- Date and time taken OUT of a secure setting
- Times in and out of a secure setting prior to a court appearance (if applicable)
- Times in and out of a secure setting after a court appearance (if applicable)
- Person/Agency released to
- Valid Court Order (VCO) documentation (if applicable)
- Section 223(a)(11)(B) documentation (if applicable)

Electronic logs will be collected whenever possible. When no electronic logs are available, a juvenile holding log with the same information requirements will be used to self-report all instances in which a juvenile was detained or confined. Information in the logs will be checked for accuracy by the Compliance Monitor.

**Inspections of Facilities on Native American Reservations**

The sovereign authority of Native American Tribes with regard to civil and criminal jurisdiction over acts committed on a reservation varies from state to state and, in some states, from tribe to tribe within a state. Where a Native American tribe exercises jurisdiction over juvenile offenders through an established tribal court and operates correctional institutions for juveniles and adults, and these activities are not subject to state law (i.e., the functions are performed under the sovereign authority of the tribal entity), the state cannot mandate tribal compliance with the core protections. Therefore, where the state has no authority to regulate or control the law enforcement activities of a sovereign Native American tribal reservation, facilities located on such reservations are not required to be included in the inspection cycle.

However, Native American tribes that receive Formula Grant funds as part of the Native American Pass-Through requirement of the JJDPA must agree to attempt to comply with the Core Protections.

## III-I. Compliance Data Collection and Verification

Date Issued: November 2009

Last Revision: February 2022

### Overview

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(D\)](#) and [\(5\)](#), the state must collect and verify data from all adult jails, adult lockups, secure detention facilities, and secure correctional facilities for the 12-month federal fiscal year (FY) reporting period, to determine whether the facilities are in compliance with the applicable requirements of DSO, Section 223(a)(11)(B), separation, and jail removal. The federal fiscal year is [October 1 to September 30](#). States that are unable to report data for 100% of facilities must report data for at least 85% of facilities within the state that are required to report.

The Compliance Monitor must verify self-reported data or data provided by another agency. Data verification may be completed through onsite review of records or through review of electronic records maintained by other agencies (i.e. Idaho Supreme Court).

### Procedures

Facility administrators determine how records of juveniles detained or confined are kept. The Compliance Monitor gathers, reviews and verifies records for accuracy. Records for juveniles in secure holding should include:

- Name or Identification Number
- Date of Birth
- Gender
- Race/Ethnicity
- Offense (most serious) for which the juvenile is being held
- Location being held
- Date and time placed in a secure setting
- Date and time taken out of a secure setting
- Times in and out of a secure setting prior to a court appearance (if applicable)
- Times in and out of a secure setting after a court appearance (if applicable)
- Person/Agency released to
- Valid Court Order (VCO) documentation (if applicable)
- Section 223(a)(11)(B) documentation (if applicable)

#### **Data Collection and Verification Process:**

1. The Compliance Monitor will issue a request for data to all facilities within the monitoring universe after November 1, for data from the prior federal fiscal year.
2. Facilities are to submit data by December 31. The Compliance Monitor may perform an on-site visit to any facility that has not submitted data in an attempt to gather the needed data.
3. The Compliance Monitor will review data by January 31. At least 10% of the data from electronic logs will be reviewed for accuracy, and at least 50% of data from handwritten logs will be reviewed for accuracy. The Compliance Monitor will:

- a. clarify any questions with facilities to:
    - i. verify data;
    - ii. collect any missing data; and
    - iii. secure proper documentation;
  - b. identify and investigate potential violations; and
  - c. prepare an annual report detailing violations.
4. The Juvenile Justice Specialist reviews and validates 10% of the data.
    - a. The sample size may increase to 20% if errors are found.
    - b. The sample size may increase to 100% if needed.
  5. The COPS Administrator spot checks data for accuracy, and:
    - a. resolves questions and reviews documentation; and
    - b. forwards final report to Director for approval.

### **Data Sets by Type of Facility**

The Compliance Monitor is responsible for collecting and verifying data from all adult jails, adult lockups, secure detention facilities, and secure correctional facilities in the state.

#### Juvenile Detention/Correctional Facilities

No adult inmate trustees are used in any secure juvenile detention or correctional facilities; therefore, these facilities will not need to be monitored for violations of the separation requirement.

Data from juvenile detention facilities will be collected monthly to monitor possible DSO violations. Data from juvenile correctional facilities will be collected annually.

Data will be collected on the following:

1. *Accused status offenders held for more than 24 hours (excluding Saturdays, Sundays, and holidays) prior to and/or immediately following an initial court appearance, excluding those held pursuant to a Valid Court Order, and out of state runaways held pursuant to the Interstate Compact.*

JJDPA regulations allow an accused status offender to be placed in a secure juvenile detention facility for up to 24 hours (exclusive of Saturdays, Sundays, and legal holidays) prior to an initial court appearance, and for an additional 24 hours (exclusive of Saturdays, Sundays, and legal holidays) immediately following an initial court appearance. Any status offender held beyond the 24 hours are violations of DSO.

2. *Adjudicated status and non-offenders held for any length of time.*

Any non-offender sentenced to detention, or any adjudicated status offender held without benefit of the Valid Court Order, are violations of DSO. (See below for info on the Valid Court Order)

3. *Status offenders held pursuant to a violation of a Valid Court Order (VCO).*

Status offender held pursuant to a Valid Court Order Exception are not violations of the DSO core requirement if the VCO process was followed and properly documented, as detailed below:

### **VCO Exception: Summary and Verification of the Process**

Currently, Idaho does use the Valid Court Order (VCO) Exception. The VCO Exception applies only to juveniles who commit a status offense. The valid court order provision may not be used for non-offenders.

#### Process

A valid court order is given by a juvenile court judge to a juvenile who was brought before the court and made subject to the order, and who received, before the issuance of the order, the full due process rights guaranteed to the juvenile by the Constitution of the United States. After its issuance, the juvenile violates the valid court order. If the juvenile is taken into custody based on a warrant for violating the order, the juvenile may be held in a juvenile detention facility. The juvenile may not be held in an adult jail or lockup for any amount of time.

To demonstrate compliance with the VCO exception, the following steps must be completed and documented when a status offender is placed in juvenile detention:

- a. An appropriate public agency shall be promptly notified that the status offender is held in custody for violating a valid court order.
- b. An authorized representative of that agency shall interview within 24 hours, in person, the status offender who is being held.
- c. Within 48 hours during which the status offender is held:
  - The agency representative shall submit an assessment to the court that issued the order regarding the immediate needs of the status offender.
  - The court shall conduct a hearing to determine whether (1) there is reasonable cause to believe that the status offender violated the order and (2) the appropriate placement of the status offender pending disposition of the alleged violation.
  - If the court determines that the status offender should be placed in a secure detention facility or correctional facility for violating the court order, (1) the court must issue a written order that:
    - ✓ Identifies the valid court order that has been violated;
    - ✓ Specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order;
    - ✓ Includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile;
    - ✓ Specifies the length of time, not to exceed 7 days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility; and
    - ✓ May not be renewed or extended; and
    - ✓ (2) The court may not issue a second or subsequent order described [in the first bullet] relating to a status offender unless the status offender violates a valid court order after the date on which the court issued the first court order.
- d. There are procedures in place to ensure that any status offender held in a secure

detention facility or correctional facility pursuant to a [valid] court order [described in this section] does not remain in custody longer than 7 days or the length of time authorized by the court, whichever is shorter.

Documentation that all steps were satisfied will be provided

The Compliance Monitor will verify 100% of cases in which a status offender was detained or confined because of violating a valid court order. Incidents will be verified through review of appropriate court documents including the Order for Detention specific to status offenders and Idaho Juvenile Rule 17e. All incidents that cannot be verified as having followed the VCO process will be reported as violations of the DSO.

4. *Out-of-State Runaways*

**Interstate Compact on Juveniles Exception:** Pursuant to the DSO requirement at [34 U.S.C. § 11133\(a\)\(1\)\(A\)\(i\)\(III\)](#), status offenders may be held in accordance with the Interstate Compact on Juveniles, as the state has enacted it. The Compliance Monitor will verify with the Idaho Interstate Compact Coordinator that all status offenders subject to an out-of-state placement were held pursuant to the Compact. Where the interstate placement of status offenders was not in accordance with the Compact, the state in which the juvenile is placed must report the placement as an instance of noncompliance.

5. *Juveniles Held Pursuant to a Contract*

The Compliance Monitor must collect and report compliance data on any juveniles detained pursuant to a contract with a federal agency and/or another state.

Adult Jails and Lockups

Records of placement of a juvenile in adult jails and lockups vary by facility. Jails often maintain booking logs while lockups may use dispatch records or other mechanisms. The Compliance Monitor will review information on-site, or by other electronic methods, and verify accuracy. Verification could include reviewing the arrest information, case file or court file on a sample of entries to determine if the time in and out is correct, and to determine if the most serious charge is listed. Additional sources of information may include probation records or records from the Idaho Supreme Court.

The Compliance Monitor will retain pertinent records for reporting purposes and they will become part of the individual Facility File. If it is not feasible to collect documents, the Compliance Monitor will collect the information onsite and request the facility archive the logs for one year.

No delinquent offenders, status offenders, and non-offenders can be detained for any amount of time in a secure setting or secure section of an adult jail or lockup as a disposition of an offense or as a means of modifying their behavior (e.g., Scared Straight programs).

Data will be collected on the following:

1. *Accused status and non-offenders detained or confined for any period of time.*

Adult jails and lockups cannot detain or confine status offenders, non-offenders, or alien juveniles at any time. These juveniles may be in a non-secure area of an adult jail or lockup for processing, while awaiting transportation to a non-secure shelter care facility or a juvenile detention center, or while awaiting release to a parent or guardian.

Adult jails and lockups should keep records of every juvenile who enters the facility. For status offenders, non-offenders, and alien juveniles, the records should indicate if the juvenile was detained or confined in a secure or a non-secure area. If such a juvenile is detained or confined at any time, this hold would count as a violation of both DSO and Jail Removal. If detained or confined and not sight and sound separated from adult inmates, the result would be a violation of DSO, Separation, and Jail Removal.

2. *Juveniles accused of nonstatus offenses detained for more than 6 hours.*

The JJDPa allows for the detention in an adult jail or lockup of those juveniles accused of committing nonstatus offenses (i.e., offenses that would be a criminal offense if committed by an adult) for the purposes of processing or release, while awaiting transfer to a juvenile facility, or during which period they make a court appearance. Any holding of juveniles should be limited to the absolute minimum time necessary to complete these purposes, not to exceed 6 hours. Any juveniles held over 6 hours are violations of the Jail Removal core requirement.

Once the juvenile has been detained or confined and the 6-hour period has begun, the facility cannot temporarily take the juvenile out and begin the 6-hour time period again. However, the time during which a juvenile is detained in a courtroom does not count toward the 6-hour limit, because a courtroom is not a jail or lockup for adults.

Any detention or confinement not related to processing/transfer/release or a court appearance is a violation of the Jail Removal core protection.

Further, the juvenile cannot have sight or sound contact with adult inmates during the time the juvenile is detained or confined. The location of where the juvenile is held should be noted to help ensure sight and sound separation was maintained.

**Rural Exception**

The JJDPa provides a "rural" exception, allowing the temporary detention in a jail or lockup beyond the 6-hour limit of juveniles accused of nonstatus offenses who are awaiting an initial court appearance within 48 hours after being taken into custody (excluding weekends and legal holidays). Such juveniles shall not have sight or sound contact with adult inmates.

It is important to note that the rural exception does not apply to status offenders. Status offenders may not be held for any length of time in an adult jail or lockup.

States must document, in writing, that all of the following conditions are met in order for an accused juvenile nonstatus offender awaiting an initial court appearance to be detained in an adult jail or lockup under the Rural Exception:

- The geographic area having jurisdiction over the juvenile must be outside a metropolitan statistical area (i.e., qualify as a "rural" area) as defined by the Office of Management and Budget;
- A determination must be made that there is no existing acceptable alternative placement for the juvenile pursuant to criteria developed by the state and approved by OJJDP;
- The adult jail or lockup must have been certified by the state to provide for the sight and sound separation of juveniles and adult inmates;

- There is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates in collocated facilities to have been trained and certified to work with juveniles.

The following facility has been approved to use the Rural Exception, and staff who work with both juveniles and adult inmates have been trained and certified to work with juveniles per IDAPA 05.01.02 and IDAPA 11.11.01:

Facility	Date Approved
Blaine County Sheriff's Office	Feb. 3, 2009

### **Travel Conditions/Conditions of Safety Exceptions**

Juveniles who are accused of nonstatus offenses who are awaiting an initial court appearance may also be detained in a jail or lockup if:

- the facility is located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation does not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed 48 hours) delay is excusable; or
- the facility is located where conditions of safety exist (e.g., severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

The Compliance Monitor will maintain documentation of any time these exceptions are used and the situation that justified their use. If the use is not justified, this will result in a jail removal violation.

3. *Adjudicated juveniles detained or confined for any length of time.*

Placement of adjudicated status offenders, including a juvenile who violates a VCO, in an adult jail or lockup would result in an instance of noncompliance with the jail removal requirement.

The statutory exceptions to the jail removal requirement do not apply to juveniles who have been adjudicated as delinquent. Detention or confinement in an adult jail or lockup for any length of time of these juveniles will result in a jail removal violation.

4. *Separation violations.*

Separation of juveniles from adult inmates must be achieved in all secure areas of the facility. Sight and Sound contact is defined as any physical, clear visual, or verbal contact that is not brief and inadvertent.

Sight and sound separation may be accomplished architecturally or through policies and procedures such as time phasing the use of an area to prohibit simultaneous use by juveniles and adults. Brief and inadvertent contact between juvenile offenders detained or confined and adult inmates in secure nonresidential areas of the facility do not count as violations.

The only juveniles who do not need to be separated from adult inmates without a violation of the core protections would be juveniles for whom a court has held a hearing and determined that it's in the interest of justice to detain the juvenile in an adult jail or lockup, juveniles who have been

sentenced pursuant to adult criminal court jurisdiction under section 223(a)(11)(B), or those who have reached the age of full criminal responsibility after arrest or adjudication.

5. *Removal of juveniles prosecuted as adults from adult facilities, juveniles who are transferred certified, or waived to criminal court.*

Pursuant to Idaho Code section 20-509, and the JJDPa section 223(a)(11)(B), unless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility shall not have sight or sound contact with adult inmates, and may not be held in any jail or lockup for adults.

In determining whether it is in the interest of justice to detain (or continue to detain) a juvenile, the court must consider:

- a. the age of the juvenile;
- b. the physical and mental maturity of the juvenile;
- c. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
- d. the nature and circumstances of the alleged offense;
- e. the juvenile's history of prior delinquent acts;
- f. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
- g. any other relevant factor(s)

If a court determines under clause (i) that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults—

- a. the court shall hold a hearing not less frequently than once every 30 days, or in the case of a rural jurisdiction, not less frequently than once every 45 days, to review whether it is still in the interest of justice to permit the juvenile to be so held or have such sight or sound contact; and
- b. the juvenile shall not be held in any jail or lockup for adults, or permitted to have sight or sound contact with adult inmates, for more than 180 days, unless the court, in writing, determines there is good cause for an extension or the juvenile expressly waives this limitation.

The Compliance Monitor will review all cases in which a juvenile was housed in an any jail or lockup for adults to determine if the requirements of section 223(a)(11)(B) were followed in their entirety. Incidents will be verified through review of appropriate court documents including the Order for Detention and minutes of relevant review hearings. All incidents that cannot be verified as having followed the process outlined in Idaho Code section 20-509 and the JJDPa section 223(a)(11)(B) will be reported as violations.

#### Adult Correctional Facilities

Holding status offenders or non-offenders in an adult correctional facility is an immediate violation of the JJDPa.

No delinquent offenders, status offenders, or juvenile non-offenders can be detained or confined for any amount of time in a secure adult facility as a disposition of an offense or as a means of modifying their behavior (e.g., Scared Straight programs). A Separation violation occurs if a juvenile who is detained in a secure adult facility has sight or sound contact with an adult inmate.

The only juveniles allowed to be placed in adult correctional facilities without a violation of the core protections would be juveniles who have been sentenced pursuant to adult criminal court jurisdiction under section 223(a)(11)(B).

## IV. Compliance Monitoring Reporting

Date Issued: November 2009

Last Revision: February 2022

### Overview

Under [28 C.F.R. § 31.303\(f\)\(5\)](#), annual compliance monitoring reports must cover the previous federal fiscal year, except that the OJJDP Administrator may grant an extension of the reporting deadline, for good cause, upon a state's request.

**COMPLIANCE DATA AND SUPPORTING DOCUMENTATION** – Compliance data and supporting documentation is submitted annually through OJJDP's [Compliance Reporting Tool](#).

### Procedures

In order to receive its full fiscal year allocation of Formula Grants program funds, a state must first demonstrate compliance with the DSO, section 223(a)(11)(B), separation, and jail removal requirements. Compliance with these requirements is demonstrated through data provided in the state's annual Compliance Monitoring Report, of which all data must be analyzed and verified prior to submission. Compliance with the Racial & Ethnic Disparities requirement is determined by information through evaluation of data and other requirements noted in the Title II solicitation.

All information requested will be compiled by the Juvenile Justice Specialist in collaboration with the Compliance Monitor and Racial & Ethnic Disparities Coordinator, and provided to the COPS Administrator and the Idaho Department of Juvenile Corrections Director for review prior to submission to OJJDP.

*Attachment A*

**Idaho Department of Juveniles Corrections  
JJDP Act Compliance Violation Report Form**

Agency in Violation: Name of agency

Agency Address: Agency address

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

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

Violation Narrative: Describe the violation  
"On date, juvenile was detained or confined from hour until hour for offense."

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

Investigation Date: Date logs were either reviewed onsite or by mail

Compliance Monitor: Name and phone number of compliance monitor who investigated

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

Date This Letter Sent: Date the compliance violation form was completed

(Copy to Facility Administrator or contact and copy for Facility File)

*Attachment B*

**DEFINITIONS**

Federal definitions will be used for any definitions used by the state of Idaho that differ from federal definitions.

<b>Federally Defined Terms Relating to Compliance With the Formula Grants Program</b>	<b>Similar State Definitions</b>
<p><b>ADULT INMATE</b>   <a href="#">34 U.S.C. § 11103 (26)</a> – means an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense, and does not include an individual who (1) at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable state law; and (2) was committed to the care and custody or supervision, including post-placement or parole supervision, of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable state law.</p>	<p><b>ADULT</b>   <a href="#">I.C. § 20-502</a> – A person eighteen (18) years of age or older.</p>
<p><b>ASSESSMENT</b>   <a href="#">34 U.S.C. 11103(38)</a> – includes, at a minimum, an interview and review of available records and other pertinent information – (A) by an appropriately trained professional who is licensed or certified by the applicable state in the mental health, behavioral health, or substance abuse fields; and (B) which is designed to identify significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth’s confinement.</p>	<p><b>ASSESSMENT</b>   <a href="#">I.C. § 20-502</a> – A comprehensive and individualized examination of the mental health, substance use, or other needs for a juvenile that typically results in treatment interventions and recommendations.</p>
<p><b>COLLOCATED FACILITIES</b>   <a href="#">34 U.S.C. § 11103 (28)</a> – means facilities that are located in the same building or are part of a related complex of buildings located on the same grounds.</p>	
<p><b>CORE REQUIREMENTS</b>   <a href="#">34 U.S.C. § 11103 (30)</a> – means the requirements described at <a href="#">34 U.S.C. § 11133(11), (12), (13), and (15)</a>.</p>	
<p><b>CRIMINAL-TYPE OFFENDER</b>   <a href="#">28 C.F.R. § 31.304(a)</a> – means a juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime, if committed by an adult.</p>	

Federally Defined Terms Relating to Compliance With the Formula Grants Program	Similar State Definitions
<p><b>DETAIN OR CONFINE</b>   <a href="#">28 C.F.R. § 31.304 (b)</a> – means to hold, keep, or restrain a person such that he or she is not free to leave or that a reasonable person would believe that he is not free to leave. The exception is a juvenile that law enforcement holds solely to return him to his parent or guardian or pending his transfer to the custody of a child welfare or social service agency. In this case, the youth is not detained or confined within the meaning of this definition.</p>	
<p><b>INSTITUTION</b>   <a href="#">Compliance Monitoring TA Tool</a> means “a secure facility that law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or adults (1) accused of having committed a delinquent or criminal offense, (2) awaiting adjudication or trial for the delinquent or criminal offense, or (3) found to have committed the delinquent or criminal offense.”</p>	
<p><b>JAIL OR LOCKUP FOR ADULTS</b>   <a href="#">34 U.S.C. § 11103 (22)</a> – means a secure facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adult inmates.</p>	
<p><b>JUVENILE OFFENDER</b>   <a href="#">28 C.F.R. § 31.304 (d)</a> – means an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by state law (i.e., a criminal-type offender or a status offender).</p>	<p><b>JUVENILE OFFENDER</b>   <a href="#">I.C. § 20-502</a> – A person under the age of eighteen (18) at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act.</p>
<p><b>MAXIMUM AGE OF EXTENDED JUVENILE COURT JURISDICTION</b>   <a href="#">Compliance Monitoring TA Tool</a> by OJJDP – means the age above which a juvenile court may no longer exercise jurisdiction under state law.</p>	
<p><b>MONITORING UNIVERSE</b>   <a href="#">Compliance Monitoring TA Tool</a> – means all public and private facilities in which law enforcement or criminal or juvenile court authority detain juveniles and/or adult inmates.</p>	
<p><b>NONOFFENDER</b>   <a href="#">28 C.F.R. § 31.304 (i)</a> – means a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.</p>	

Federally Defined Terms Relating to Compliance With the Formula Grants Program	Similar State Definitions
<p><b>RESIDENTIAL</b>   <a href="#">Compliance Monitoring TA Tool</a> – means equipped with beds, cots, or other sleeping quarters and has the capacity to provide for overnight accommodations for juveniles or adults who are accused of committing or who have committed an offense.</p>	
<p><b>SECURE</b> as defined under <a href="#">28 C.F.R. § 31.304 (m)</a> and used to define a detention or correctional facility – includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in custody, such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.</p>	<p><b>SECURE FACILITY</b>   <a href="#">I.C. § 20-502</a> – Any architecturally secure residential facility that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.</p>
<p><b>SECURE CORRECTIONAL FACILITY</b>   <a href="#">34 U.S.C. § 11103 (13)</a> – means any public or private residential facility which—(1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.</p>	<p><b>JUVENILE CORRECTIONAL FACILITY</b>   <a href="#">I.C. § 20-502</a> – Any state-operated residential facility or facility operated pursuant to a contract with the state that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.</p>
<p><b>SECURE DETENTION FACILITY</b>   <a href="#">34 U.S.C. § 11103 (12)</a> – means any public or private residential facility which— (1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.</p>	<p><b>JUVENILE DETENTION CENTER</b>   <a href="#">I.C. § 20-502</a> – a secure facility established pursuant to sections <a href="#">20-517</a> and <a href="#">20-518</a>, Idaho Code, and in compliance with IDAPA 05.01.02.</p>
<p><b>SIGHT OR SOUND CONTACT</b>   <a href="#">34 U.S.C. § 11103 (25)</a> – means any physical, clear visual, or verbal contact that is not brief and inadvertent.</p>	
<p><b>STATE</b>   <a href="#">34 U.S.C. § 11103(7)</a>– means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.</p>	

Federally Defined Terms Relating to Compliance With the Formula Grants Program	Similar State Definitions
<p><b>STATUS OFFENDER</b>   <a href="#">34 U.S.C. § 11103(42)</a> – means a juvenile who is charged with or has committed an offense that would not be criminal if committed by an adult.</p>	<p><b>STATUS OFFENSES</b>   <a href="#">I.C. § 20-516</a> – Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian, alcohol age violations under section <a href="#">18-1502(e)</a>, Idaho Code, and curfew violations.</p>
<p><b>TWENTY-FOUR HOURS</b> <a href="#">Compliance Monitoring TA Tool</a> – means a consecutive 24-hour period, exclusive of any hours on Saturdays, Sundays, public holidays, or days on which the courts in a jurisdiction otherwise are closed.</p>	
<p><b>VALID COURT ORDER</b>   <a href="#">34 U.S.C. § 11103(16)</a> – means a court order that a juvenile court judge gives to a juvenile who was brought before the court and made subject to the order and who received, before the issuance of the order, the full due process rights that the U.S. Constitution guarantees to the juvenile.</p>	

*Attachment C*

**CLASSIFICATION CERTIFICATION**

DATE: \_\_\_\_\_

NAME OF FACILITY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

Mark each item below as True (T) or False (F) to determine the facility's classification. If this facility is secure, reporting data of juveniles held in this facility should be maintained.

1) \_\_\_ Within this facility there are no holding cells or locked rooms. (If True, skip to Question 3)

2) \_\_\_ Within this facility there are holding cells but they are not used to detain juveniles or adults for any reason (i.e. used for storage). Our agency has informal or formal policies that state this directive. (If False, Stop & classify Secure)

3) \_\_\_ There are no cuffing rings, cuffing benches or other stationary objects that officers use to cuff people to prevent them from leaving the building or room. (If False, Stop & classify Secure)

4) \_\_\_ There is an interview room that may be used for victim interviews, suspect interrogations, and/or temporary holding. (If False, Stop & classify Non-Secure)

5) \_\_\_ The interview room has no locks on the door and is not used to detain or confine any person our agency takes into custody. (If True, classify Non-Secure).

6) \_\_\_ The interview room has a lock on the door but no officer can lock it (i.e., they do not have the key). (If True, classify Non-Secure).

7) \_\_\_ The interview room has a lock on the door but the lock is only operational from the inside, therefore, the suspect or victim can lock themselves in but they cannot be locked in from the outside. (If True, classify Non-Secure).

Included in our agency's written policies and procedures are directives that suspects will not be cuffed to a stationary object within the facility.

Certification: This form must be signed by agency personnel with the authority to certify the accuracy of the information provided on this form. If any of the above information changes, contact the Compliance Monitor to review classification status.

\_\_\_\_\_  
Authorized Official, Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Attachment D*

**COMPLIANCE MONITORING SITE VISIT/FACILITY INSPECTION REPORT**

**DATE:**

**NAME OF FACILITY:**

**ADDRESS:**

**NAME OF CONTACT:**

**EMAIL/PHONE:**

**FACILITY TYPE:**

- ADULT JAIL/LOCKUP       SECURE DETENTION FACILITY       SECURE CORRECTIONAL FACILITY  
 NON-SECURE FACILITY

**CLASSIFICATION:**

- SECURE                       NON-SECURE                       BOTH  
 RESIDENTIAL               NON-RESIDENTIAL               BOTH  
 JUVENILES ONLY           ADULTS ONLY                       BOTH

**LOCATION OF SECURE AREAS:**

**LOCATION OF NON-SECURE AREAS:**

**WHERE ARE DELINQUENTS HELD?**

**WHERE ARE STATUS OFFENDERS HELD?**

**SIGHT & SOUND:**       SIGHT SEPARATION       SOUND SEPARATION

**HOW ARE SIGHT & SOUND SEPARATION MAINTAINED?**

**HOW IS DATA RECORDED/MAINTAINED?**

**ANY SAFETY/SECURITY CONCERNS?**

**WHAT NEEDS DOES THE FACILITY HAVE?**

**CHECKLIST:**

- REVIEW DATA/LOGS       OBTAIN FACILITY LAYOUT       OBTAIN JUVENILE POLICY & PROCEDURES

*APPENDIX A*

**ONLINE RESOURCES**

<b>Title</b>	<b>Description</b>	
<b>Office of Juvenile Justice and Delinquency Prevention (OJJDP) Webpage</b>	<p>A component of the <a href="#">Office of Justice Programs</a> within the <a href="#">U.S. Department of Justice</a>, OJJDP works to prevent and respond to youth delinquency and protect children.</p> <p>Through its divisions, OJJDP sponsors research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming.</p>	<a href="#">Link</a>
<b>Authorizing Legislation</b>	<p>This OJJDP webpage reviews the authorizing Legislation that Congress enacted in regards to the Juvenile Justice and Delinquency Prevention (JJDP) Act (Pub. L. No. 93-415, 34 U.S.C. § 11101 et seq.) in 1974. This landmark legislation established OJJDP to support local and state efforts to prevent delinquency and improve the juvenile justice system.</p>	<a href="#">Link</a>
<b>Juvenile Justice and Delinquency Prevention Act</b>	<p>This is the text of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended.</p>	<a href="#">Link</a>
<b>Redline Version Juvenile Justice and Delinquency Prevention Act as Amended by the Juvenile Justice Reform Act of 2018</b>	<p>This version of the Juvenile Justice and Delinquency Prevention Act (JJDP), includes the amendments made by the Juvenile Justice Reform Act of 2018 (in red).</p>	<a href="#">Link</a>
<b>OJJDP Core Requirements Webpage</b>	<p>The information on this page assists states in monitoring and achieving compliance with the core requirements of the Formula Grants Program, including information on the background of the JJDP, supporting regulations, state compliance with JJDP core requirements, reporting requirements, guidance and resources, and staff contact information.</p>	<a href="#">Link</a>
<b>OJJDP Fact Sheet: Key Amendments to the Juvenile Justice and Delinquency Prevention Act Made by the Juvenile Justice Reform Act of 2018</b>	<p>This fact sheet describes several significant amendments to the JJDP made by the JJRA.</p>	<a href="#">Link</a>
<b>National Archives: Code of Federal Regulations for Part 31 – OJJDP Grant Programs</b>	<p>This is the existing regulation implementing the Formula Grants Program authorized under the JJDP.</p>	<a href="#">Link</a>