

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Guidance Manual for Washington State Compliance Monitors

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INTRODUCTION

The Juvenile Justice and Delinquency Prevention Act of 1974, reauthorized in 2002, includes four core protections:

- **Deinstitutionalization of Status Offenders (DSO):** Eliminating or preventing the placement of non-offending youth and status offenders, such as runaways or truants, in secure facilities.
- **Separation:** Ensuring complete sight and sound separation of juveniles from adult offenders in secure facilities (such as adult jails, lockups and secure correctional facilities), when they are held.
- **Jail Removal:** Eliminating the confinement of juveniles in adult jails and lockups.
- **Disproportionate Minority Contact (DMC):** Addressing juvenile delinquency prevention and system improvement efforts designed to reduce the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system.

The Governor's Juvenile Justice Advisory Committee (GJJAC) was established in 1982, by Executive Order, in response to the federal JJDP Act. The Act established a block grant program (Title II Formula Grants Program) to distribute funds to the states, based on their juvenile population under age 18, and requires states to establish State Advisory Groups to administer the program. In September 2011, the former State Advisory Group, the Governor's Juvenile Justice Advisory Committee, was sunset, and the Washington State Partnership Council on Juvenile Justice (WA-PCJJ) was created via Executive Order 10-03.¹ The federal Act established a single federal agency to address juvenile delinquency, the Office of Juvenile Justice & Delinquency Prevention (OJJDP), in the U.S. Department of Justice.

In order to be eligible to receive JJDP Act Title II Formula Grants Program funds, and Title V Community Prevention Grant Program funds, states are required to commit to achieve and maintain compliance with the four core requirements (listed above). Failure to achieve or maintain compliance reduces the Title II Formula Grant award to the state by 20 percent for each core requirement not met (prior to the reauthorization, there was a 25 percent penalty for non-compliance with each core requirement). The federal OJJDP found Washington State to be out of compliance with the DSO requirement of the federal Act, and consequently reduced the Title II Formula grant awards to the state, from FFY 2000 through 2010 (the state was penalized over 2.7 million cumulatively). In October 2010 the Department of Social and Health Services received written notification from the federal OJJDP that the state was found to be in compliance with the DSO requirement, and hence eligible to receive the full Formula Grants Program allocation for the state in FY 2011. These findings were based on 6 months of data (annualized) for calendar year 2009. The state was also found in full compliance in the following year based on 12 months of CY 2010 data, and hence eligible to apply for the full FY 2012 funding award, due to OJJDP on May 7, 2012.

SECURE AND NON-SECURE CUSTODY

Holding a juvenile securely is key to compliance with the two core protections: deinstitutionalization of status offenders and jail removal. Understanding the OJJDP's definitions for secure and non-secure

¹ Staff to the state advisory group are located in the Office of Juvenile Justice (OJJ) within the state Department of Social and Health Services, and are responsible for planning and administering the functions and activities of the Council.

custody is critical to knowing when a juvenile is securely held.

Knowing the definition of secure/non-secure custody is especially important to those responsible for law enforcement facilities not considered custodial in this state; that is, not considered jails or holding facilities. This includes holding cells that are not within a secure perimeter, lockable interview rooms, cuff bars/rings/benches, and restraint chairs. The details of the section on JJDP Act requirements by type of facility need to be read with these distinctions in mind.

Secure Custody of Juveniles

As used to define a detention or correctional facility, secure custody includes residential facilities having construction features designed to physically restrict the movements and activities of persons in custody (e.g., locked rooms and buildings, fences, or other physical structures). It does not include facilities where physical restriction of movement or activity is provided solely through facility staff (i.e., staff secure).

Further guidance in distinguishing non-secure custody from secure custody comes from the November 2, 1988, *Federal Register* announcement, *Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy*. The policy states that a secure detention or confinement status has occurred within a jail or lockup facility when a juvenile is physically detained or confined in a locked room, set of rooms, or a cell that is designated, set aside, or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being placed in such a room or enclosure and/or from being physically secured to a cuffing rail or other stationary object, such as a restraint chair.

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

The following situations would be considered **in a secure custody status**:

- A juvenile placed in an unlocked room within the secure perimeter of an adult jail or lockup or a juvenile detention center.
- A juvenile handcuffed to a rail in an otherwise non-secure area (e.g., unlocked lobby or non-secure conference room) of an adult jail or lockup.
- A juvenile placed in a room that contains doors with unapproved delayed egress devices or approved delayed egress devices with a delay of more than 30 seconds.
- A juvenile being processed in a secure booking area when an unsecure booking area is available within a facility.
- A juvenile left in a secure booking area after being photographed and fingerprinted.
- A juvenile locked in a cell within an adult jail or lockup.
- A juvenile placed in an adult jail or lockup in the same area as an adult that is secured to a cuffing rail, bench, or other construction feature designed, set aside, or used to securely detain individuals.
- A juvenile locked in an interview room that prevents egress within an otherwise non secure area in

an adult lockup or jail.

Non-Secure Custody of Juveniles

A juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in a secure detention or confinement status.

All of the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility.

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

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

- A juvenile handcuffed to a non-stationary object: If the five criteria listed above are adhered to, handcuffing techniques that do not involve cuffing rails or other stationary objects are considered non-secure.
- A juvenile being processed through a secure booking area: Where a secure booking area is all that is available and continuous visual supervision is provided throughout the booking process and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules), the juvenile is not considered to be in a secure detention status. Continued non-secure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
- A juvenile placed in a secure police car for transportation: The JJDP Act applies to secure detention facilities and secure correctional facilities; therefore, a juvenile placed in a police car for transportation would be in a non-secure status.
- A juvenile placed in a non-secure runaway shelter but prevented from leaving because of staff restricting access to exits: A facility may be non-secure (i.e., staff secure) if physical restriction of movement or activity is provided solely through facility staff.
- A juvenile placed in a room that contains doors with delayed egress devices which have received **written** approval (including a specification of the maximum time delay allowed) by the authority

having jurisdiction over fire codes and fire inspections in the area in which the facility is located and which comply with the egress delay established by the authority having jurisdiction over fire codes and fire inspections. In no case shall this delay exceed 30 seconds (the maximum delay allowed by the National Fire Protection Association). Other requirements for supervised automatic fire detection and automatic sprinkler system must be met.

In Appendix B, a flow chart depicts decisions that can be used to determine if a juvenile is in secure custody in an adult jail or lockup.

TYPES OF JUVENILES AS DEFINED BY THE ACT

Juvenile Offender

Juvenile offenders are individuals subject to the jurisdiction of the juvenile court. In Washington State, a juvenile offender is defined as any juvenile (under age 18) who has been found by the juvenile court to have committed an offense.

Criminal-type Offender

These are juvenile delinquent offenders and face charges or have been adjudicated on charges that would be a crime if committed by an adult.

Alleged Delinquent Offender

An alleged delinquent is a juvenile who is believed to have committed a criminal-type offense. Juveniles picked up on a violation of sentencing conditions should be treated as though they are an alleged offender. The same is true of a juvenile picked up for a failure to appear for a hearing on a criminal-type offense.

Sentenced Offender

Sentenced offenders in this context are those who are being detained in a jail or lockup for the purpose of serving a sentence there (in the facility). Sentenced offenders are not those juveniles picked up on a violation of conditions of that sentence.

Status Offender

Status offenders face charges or have been adjudicated for conduct that would not be a crime if committed by an adult, such as:

- Truancy (or violations or Truancy orders)
- Curfew violations
- Running away
- Violations of CHINS or At-Risk Youth orders
- Underage possession and/or consumption of tobacco products

Juveniles in possession of a handgun are status offenders in that they are under the age of 18 but can be charged with an offense that would not be a crime for an adult. These juveniles are an exception under an amendment to the JJDP Act and states may elect to treat them as juvenile delinquents or status offenders. In Washington State, they are treated as delinquent offenders.

Civil Offender

Civil offenders face charges or have been adjudicated for an offense that is civil in nature. Examples include non-criminal traffic violations and non-criminal fish and game violations.

Non-Offender

Non-offenders are under the jurisdiction of the juvenile court for reasons other than legally prohibited conduct, such as abuse, neglect, or dependency. CHINS (Child in Need of Services) and At-Risk Youth, as defined by Washington State statutes, are not considered non-offenders and are considered status offenders. Juveniles in police custody because of a mental health hold or the need for protective custody are non-offenders and should not be placed in secure custody in a jail or law enforcement facility.

Juvenile Charged as an Adult

Juveniles, charged as adults through either a waiver or remand, are no longer under the jurisdiction of the juvenile court, having been transferred to adult criminal court jurisdiction. They are considered adults under the provisions of the JJDP Act. An August 2008 memo from the Administrator of OJJDP provides a revised interpretation of the definition of adult inmate that gives states the maximum flexibility allowed under the Act regarding the placement of members of the transferred, waived and certified population (juveniles who are transferred, certified or waived into the adult system after arrest or sentencing); this determination provides that remanded juveniles may be placed in a juvenile facility up to the state's maximum age of extended juvenile jurisdiction (21 years in Washington) without violating the separation requirement; or, they may be transferred to an adult facility. Once charged as an adult, they continue to be treated as an adult and can be placed in an adult jail (Washington State's state advisory group distributed a model policy/practice regarding the secure detainment of juveniles who have been transferred to the adult system and are held locally pre-trial, pre-sentencing).

Adult Convicted as a Juvenile and Continuing Under Juvenile Court Jurisdiction

Adults, convicted as juveniles of an offense and continuing under the jurisdiction of the juvenile court, are not considered to be adults under the provisions of the JJDP Act. Minors in Possession are the most common example. If detained for failure to meet conditions of their sentence, they may be housed in a local jail as an adult or in a juvenile detention facility as though they were still juveniles. The choice is left to the jurisdiction.

CORE REQUIREMENTS BY TYPE OF FACILITY

Eight types of facilities are the primary focus of the Act:

1. Jails, Lockups, and Other Law Enforcement Facilities
2. Court Holding Facilities
3. Collocated Facilities
4. Department of Corrections Facilities
5. Juvenile Detention Facilities
6. Department of Juvenile Rehabilitation Administration Facilities
7. Non-secure Community-Based Facilities
8. Secure Mental Health and Chemical Dependency Treatment Facilities

The complete list of facilities by type is in Appendix A. Unless otherwise stated, each year at least ten percent of the facilities in each category must be monitored (all secure facilities should be monitored on a 3-year cycle).

Jails and Lockups

Under the provisions of the JJDP Act, Section 22, a “jail or lockup for adults” means any locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults --

- Pending the filing of a charge of violating a criminal law;
- Awaiting trial on a criminal charge; or
- Convicted of violating a criminal law....”

It further states in Section 13 that “the term *secure correctional facility* means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility....”

In Washington State, jails and lockups were defined by the now sunset Jail Commission as secure, contained areas within a law enforcement facility; for example, two holding cells, a six-bed jail and booking area, a full correctional facility with its own staff. The JJDP Act is not limited to these types of areas, but includes locked interview rooms, a cuff bar/ring or bench in a room, an entire facility accessed and exited with a key or a card only.

As a consequent of the Act, every law enforcement agency in the state is *required* annually to specify their practice in regard to the secure holding of juveniles. Included in this requirement are municipal police departments, sheriff’s offices, other law enforcement agencies, such as port authority and campus police, state patrol, federal agencies, and tribal police.

Juveniles may be processed in a secure booking area, when this is the only location for fingerprinting, photographing and testing for alcohol levels, as long as they are accompanied at all times and under continuous visual observation, that is, accompanied by staff, either the arresting officer or jail staff.

- Status and non-offenders *cannot be placed in secure areas.*

- Juveniles must be *separated from adults*. Rural Exception facilities must *certify that they meet sight and sound separation requirements*.
- The *appropriate time constraints, either 6 hours, 24 or 48*, must be observed when securing alleged delinquent offenders.
- Annual reporting of juveniles securely held is *required*.
- Annual site visits to 10 percent of these facilities is *required*.

Court Holding Facilities

Court holding facilities, when used for temporarily holding juveniles awaiting a court appearance or following one, are not considered a jail or lockup and are exempt from all but one of the provisions of the JJDP Act. Temporary means no longer than the judicial day on which the hearing was held.

Status and non-offenders may be temporarily held awaiting an appearance. The time constraints of 6 or 24 hours are not pertinent since juveniles are brought and removed within the same judicial day.

- **Separation** of adults and juveniles is *required*.
- Monitoring is *not required*.

Such locations cannot be used for punitive or other purposes not related to a court appearance. Washington State has only two such facilities.

Collocated Facilities

A collocated facility is one in which both juveniles and adults are held in the same building or as part of a complex of buildings sharing common walls or fences. Collocated facilities that fail to meet criteria for separation of adults and juveniles will be classified as a jail or lockup.

- Separation of adults and juveniles is *required*.
- Non-residential separation can be managed by time-phasing.
- Separation of management, security and direct care staff is *required*. Specialized staff may serve both populations. As of October 1, 2003, management, security and direct care staff may be the same, if state policy requires staff to take certifiable training specific to work with juveniles. The policy and the training package must be submitted to OJJDP for approval.
- State operational requirements *must be met* by the juvenile detention facility.
- Annual on-site reviews are *required*.

Collocated facilities must have concurrent approval by state and federal staff and must be preceded by a needs assessment. There is only one collocated facility in Washington State, approved early in the life of the JJDP Act. That is the short-term juvenile detention facility and adult jail in Whitman County. Adults and juveniles are always separate. Staffing is completely separate, with the exception that the adult jail control room provides visual backup for juvenile staff. It meets state requirements for its operation.

Collocated facilities that fail to meet collocation criteria are considered adult jails or lockups and are required to meet the core requirements for deinstitutionalization of status offenders, separation and jail removal.

Department of Corrections Facilities (Adult)

Under the provisions of the JJDP Act, prisons include “any institution used for the post-conviction confinement of *adult* criminal offenders, including work camps and secure facilities located in the community.”

No status or non-offenders can be held in an adult prison. Jail removal does not apply to adult prisons. A juvenile delinquent offender may serve a sentence in an adult prison. However, under the provisions of the JJDP Act, these juveniles must be sight and sound separated from adults until they turn 18. In Washington State, the law permits the transfer of inmates from the Juvenile Rehabilitation Administration (JRA) to the custody of the Department of Corrections (DOC) per the Youthful Offender Program. See RCW 13.40.280.

- Separation of a juvenile delinquent offender from adult inmates is *required*.
- Annual reporting of juveniles held is *required*.
- Annual site visits to 10 percent of these facilities are not *required* (*spot check recommended*).

A remanded juvenile, now an adult in the eyes of the criminal code, can serve a sentence in an adult prison without being separated from adult prisoners. However, Washington State law is more restrictive, and requires that an offender under the age of 18 who has been transferred to adult court jurisdiction be segregated from adult offenders (“must be placed in a housing unit, or a portion of a housing unit, that is separated from offenders 18 years of age or older, until the offender reaches the age of 18”, RCW 72.01.410). A juvenile who has been remanded on an earlier crime and is convicted for a lesser second offense remains an adult and can be held in a DOC facility.

Juvenile Detention Facilities

In Washington State, all but one secure juvenile detention facility are operated by counties (one is privately-run and used by a regional cluster of eastern counties). All detention facilities in the state are used for the custody of *accused or adjudicated juvenile delinquent offenders; some of these facilities also hold remanded juveniles awaiting sentencing. These facilities also hold status offenders pursuant to the valid court order exception.* Other juveniles are held in those facilities under limited conditions.

Under the Act, secure custody includes facilities that physically restrict movement and activities by locked rooms or areas, fences and other physical structures, and alarm devices that prevent departure. This includes facilities that contain doors with delayed egress devices that exceed a 30-second time delay. Under those definitions, all detention facilities in the state are secure.

Secure juvenile detention facilities may not hold status offenders, non-offenders or civil offenders except under specific circumstances. Accused status offenders or non-offenders can be held up to 24 hours, excluding weekends and holidays, prior to an initial court appearance and for an additional 24 hours, again excluding weekends and holidays, immediately following that court appearance.

Adjudicated status offenders may not be securely held for any length of time – *unless the conditions for a valid court order or the handgun possession exception have been met.* Status offenders allegedly in violation of a Valid Court Order held in secure juvenile detention must be interviewed by a representative from a public agency in person within 24 hours; and an assessment provided to the court to be utilized

during a violation hearing (probable cause or detention review hearing) which must be conducted within 48 hours, excluding weekends and holidays, of the status offender being placed in detention.

Non-offenders and civil offenders who are adjudicated may not be held securely.

Out-of-state runaways held beyond 24 hours awaiting return to custody in another state on a warrant or court order “must be reported as violations of the deinstitutionalization of status offenders requirement.” *These violations will be excluded* if they bring the state’s non-compliance rate over 29.4 per 100,000 juveniles in the at-risk population.

- Deinstitutionalization of alleged status offenders and non-offenders is *required*, with some exceptions.
- Exceptions for alleged status and non-offenders include holds up to 24 hours prior to and 24 hours after the hearing, excluding weekends and holidays.
- Deinstitutionalization of adjudicated status offenders is *required* with two exceptions.
- Alleged status offenders accused of violating a valid court order may be held as much as 24 hours before being interviewed by an authorized representative of a public agency and a court hearing to determine probable cause within 48 hours of admission (with an assessment provided to the court). Both exclude weekends and holidays.
- Status offenders adjudicated for violating a valid court order may be held without restriction (however, state law restricts up to 7 days).
- Reporting of out-of-state runaways held longer than 24 hours is *required*.
- Annual reporting of status offenders held is *required*.
- Annual site visits to 10 percent of these facilities is required.

Remanded juveniles may be held in a juvenile detention facility, not to exceed the state’s maximum age of extended juvenile jurisdiction (21 years); separation (from juvenile offenders) is not required. At that point, they must be transferred to an adult facility.

Secure Crisis Residential Facilities

Secure Crisis Residential Centers/Facilities are permitted under Washington law. Their purpose is to provide crisis intervention services, assessment, immediate treatment and protection for juveniles who are runaways or in dangerous situations.

Currently (April 2012), there are six of these facilities; four of the six Secure Crisis Residential Facilities in the state are staff-secure under federal guidelines; the remaining two are located within juvenile detention facilities, and hence are physically secure. These two secure crisis residential facilities remain in operation, located within the Clallam and Chelan County juvenile detention facilities. Youth held in these secure facilities are primarily runaways.

Secure Crisis Residential facilities (S-CRCs) must meet JJDP requirements for deinstitutionalization of status offenders and non-offenders, as follows:

- Deinstitutionalization of alleged status offenders and non-offenders is *required*, with some exceptions. Exceptions for alleged status and non-offenders include holds up to 24 hours prior to and 24 hours after a court hearing, excluding weekends and holidays.
- Deinstitutionalization of adjudicated status offenders is *required* with two exceptions noted under the

bullets below.

- Alleged status offenders accused of violating a valid court order may be held as much as 24 hours before an interview and a violation hearing within 48 hours. Both exclude weekends and holidays.
- Status offenders adjudicated for violating a valid court order may be held without restriction.
- Reporting of out-of-state runaways held longer than 24 hours is *required*.

The two operating S-CRC facilities located within juvenile detention facilities must report juveniles held. Per the federal OJJDP's direction, data for youth held in these 2 facilities is included in the juvenile detention facility category in the annual compliance monitoring report.

- Annual reporting of juveniles securely held is *required*.
- Site visits to these facilities is *required* (*all should be monitored onsite at least once every 3 years, typically on the same schedule as the respective juvenile detention facility*).

State Department of Juvenile Rehabilitation Administration (JRA) Facilities

Juvenile Rehabilitation Administration state facilities that are secure, i.e., Echo Glen Children's Center, Naselle Youth Camp, Green Hill Training School, and the Basic Training Camp, can hold the same types of juveniles as a juvenile detention facility. Given Washington law, the parallel only matters with *adjudicated delinquent offenders* sentenced to more than 30 days.

Sentenced delinquent offenders, convicted of any offense, can be placed in a secure JRA facility. Juveniles convicted as an adult (remands) can also be placed in a secure JRA facility until they have reached the maximum age of extended juvenile jurisdiction, up to age 21 years (determination made in August 2008 memo from the Administrator of OJJDP). This is consistent with Washington State's statutory provision for the transfer of offenders from DOC to JRA per the Youthful Offender Program (RCW 72.01.410), consistent with the federal determination, and allows the transfer of remanded juveniles from DOC to JRA up to the age of 21 years.

Youth convicted as delinquent offenders are still considered delinquent offenders, up to age 21 years. They may be transferred to DOC and returned to JRA. The requirements for separation of adults and juveniles does not apply in either a DOC facility or a JRA facility, if they are over the age of 18. The separation requirements do apply to transfers to DOC of juvenile delinquent offenders under the age of 18.

- Annual reporting of juveniles convicted as adults is *required*.
- Annual site visits to 10 percent of these facilities is *required*.

Non-Secure Community-Based Facilities

Two types of non-secure facilities hold juvenile delinquent offenders and status offenders. These are the group homes operated by JRA, DSHS, and the semi-secure Crisis Residential Centers (operated by Children's Administration, DSHS).

Non-secure facilities are exempt from compliance with the three core protections of the JJDP Act –

deinstitutionalization of status offenders, separation of adults and juveniles and jail and lockup removal.

- Annual site visits to 10 percent of these facilities are *not required (spot check recommended)*.

Secure Mental Health Treatment Facilities

A juvenile committed under a civil commitment law or who voluntarily enters a secure residential treatment program is “outside the class of juvenile status and non-offenders.” A juvenile placed in such a program solely as a condition of an At-Risk Youth or CHINS order would be a status offender and would constitute a violation of the JJDP Act. A juvenile who already has an At-Risk Youth or CHINS order can be simultaneously civilly committed to a mental health treatment program without violating the JJDP Act requirement for deinstitutionalization of status offenders. A delinquent offender may be civilly committed and may mingle with adults also so committed.

Juveniles may be civilly committed for treatment under the provisions of Washington’s mental health statutes. None of the community facilities can be physically secure under the emergency exit requirements of the life, safety section of the applicable building codes.

- Monitoring is *recommended* to insure that community facilities in which juveniles receive mental health treatment are staff secure, not physically secure. This monitoring is part of licensure and done by the Department of Health (the OJJ will attempt to conduct visits periodically (*spot check*) to verify the non-secure status of these facilities).

APPLICABLE STATE STATUTES AND REGULATIONS

Only three of the four core protections are relevant to external monitoring of agencies in Washington State. These are deinstitutionalization of status offenders, removal of juveniles from adult jails and lockups, and separation of juveniles from adult offenders.

The 2002 reauthorization of the JJDP Act requires states to address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system. Washington State reviews records from the Administrative Office of the Courts (AOC) specific to detention in juvenile facilities operated by counties and the state, collects data annually on Relative Rate Index (RRI) forms from 14 counties across the state, enters all RRI data into the OJJDP web-based data system, and funds JDAI programs (in 10 counties) which are working to reduce DMC.

The sections that follow are organized by core protections. This section reviews the federal requirements and the applicable state statutes for those three core protections, for the housing of remanded, waived or declined juveniles, and for compliance monitoring. Information specific to all types of facility are included in each section. The details include:

- The federal requirements,
- Any equivalent or inconsistent statutes and regulations,
- Exceptions, as adopted by this state, and
- Appropriate responses by agencies seeking to be compliant.

Exceptions Utilized by Washington State

First, a brief description of the exceptions this state uses. These are:

- The allowance to hold an accused status offender in a secure juvenile detention facility for up to 24 hours, exclusive of weekends and holidays, prior to an initial court appearance and for an additional 24 hours, exclusive of weekends and holidays, immediately following an initial court appearance.
- The VCO exception—status offenders found to have violated a valid court order may be securely detained in a juvenile detention or correctional facility (in Washington, status offenders found in contempt of a court order related to a status offense—primarily ARY and Truancy—may be held in a juvenile detention center for up to 7 days).
- The 6-hour hold allowance (in adult jails & lockups) for alleged delinquent offenders.
- The removal or “rural” exception for alleged delinquent offenders in designated, approved rural areas in the state (10 approved locations—must be re-certified and approved annually within the Title II federal grant application process).
- The transfer or waiver allowance that juveniles waived or transferred to criminal court (adult court jurisdiction) may be held in juvenile facilities until they reach the state’s maximum age of extended juvenile jurisdiction (up to age 21 in Washington).

Deinstitutionalization of Status Offenders

Federal Requirements

The 1980 amendments specified that status offenders, civil and non-offenders shall not be securely held in a detention, correctional or law enforcement facility in which both adults and/or juvenile offenders may be held.

The Act as thus amended does permit status offenders to be placed in juvenile detention facilities if accused. They can be held up to 24 hours prior to and 24 hours after an initial court appearance, excluding weekends and holidays. This provision is used to exempt the first hours a youth is held in Secure Crisis Residential Centers (S-CRCs), and for the 24 hour period following the court review, excluding weekends and holidays.

Under the 2002 amendments to the Act, effective October 1, 2003, youth detained to determine violation of a valid court order can be held up to 48 hours, if there is an interview with an appropriate agency, not a law enforcement agency, within 24 hours of the youth’s admission, and a probable cause hearing is held on the violation within 48 hours of the youth’s admission. If probable cause is not found, the agency has a 24 hour period in which to release following the hearing. All these timeframes exclude weekends and holidays.

It is not necessary to verify that all of the steps in the VCO process have been followed if the youth has already been sentenced to detention; but, if a warrant is issued because the youth fails to appear for a hearing, and they are picked up by law enforcement and taken directly to detention, then all of the VCO steps must be followed, since they have not yet been sentenced.

Adjudicated status offenders can be held in juvenile detention following a finding of violation of a valid court order for a term set by the judge. The valid court order provision has a bearing on whether local law enforcement can expect juvenile detention facilities to take Minors in Possession of Alcohol. It also applies to status offenders held in S-CRCs who have a prior court order related to a status offense.

See the Valid Court Order Checklist in the Appendices for a detailed list of the provisions.

A four level screening and review system is in place to ensure that only youth committed to custody after having been convicted of a delinquent act are admitted to a juvenile correctional facility (juvenile training school). Standard sentencing guidelines limit commitments to serious and/or repeat offenders.

State Statutes are Consistent with Federal Requirements, except as noted below.

Under the provisions of 13.32A.050 and 060, a law enforcement officer shall take a child into custody when the child is in a dangerous situation, suspected of being or known to be a runaway, in violation of curfew, or is believed to be in violation of a court order. Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. No child may be placed in a secure facility except as provided in 13.32A. The only secure locations so noted are secure crisis residential facilities and juvenile detention facilities.

The Youth Handgun Safety Act exception allows a state to consider juveniles in possession of a handgun as status offenders or delinquent offenders. In Washington State these youth are treated as delinquents. (See Possession of Firearms by Minor (<18) (9.41.040(1)(b)(iii)).) States are required to report youth held for possession of a handgun. In Washington State, these data are collected by the AOC.

Inconsistent with Federal Requirements: A youth may be held in a secure crisis residential facility that is located within a juvenile detention center for up to five days per admission, per state law (RCW 13.32A). Under the provisions of the JJDP Act, OJJDP regulations allow a facility to hold an accused status offender in a detention facility for up to 24 hours, excluding weekends and holidays, prior to an initial court appearance and for an additional 24 hours, excluding weekends and holidays, immediately following the court hearing.

In March 2011 the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) released **new guidance** for the states regarding Minor in Possession of Alcohol (MIP) offenses -- based on a determination from the Office of Justice Programs' Office of the General Counsel, OJJDP now considers youth charged with MIP/MIC (alcohol) offenses to be accused delinquent offenders (not status offenders). (This is consistent with Washington State law, which considers MIP offenses a delinquent offense for youth under the age of 18.) OJJDP recommends that agencies continue the practice of not securely detaining juveniles under the age of 18 in adult facilities for MIP/MIC, and the federal Office is committed to pursuing a statutory amendment to the federal Juvenile Justice and Delinquency Prevention Act that would include MIP offenses as status offenses under federal law. The OJJ recommends that law enforcement agencies continue the SOP of not securely detaining juveniles under the age of 18 for MIP/MIC for any length of time in adult lockups, holding facilities and jails.

A copy of the March 2011 memorandum to the states from the Acting Administrator of OJJDP, which provides background information on this determination, is available for agencies to be downloaded from

the Office of Juvenile Justice/WA-PCJJ website at the following link:

<http://www.dshs.wa.gov/pdf/ojj/LawEnforcement/> . This information has been shared with secure law enforcement facilities and jails statewide.

Removal of Juveniles from Adult Jails and Lockups

Federal Requirements

The 1980 amendment to the JJDP Act states that “no juvenile shall be detained or confined in any jail or lockup for adults...” The amendment was adopted because of concerns for the safety of juveniles secured in jails and lockups. Research shows that assaults by adult offenders and staff in adult facilities are higher than when juveniles are in juvenile facilities. To reduce threats to safety, facilities with a mixture of adults and juveniles often segregate the juveniles in solitary confinement, thus increasing the chances of suicide and other forms of self-harm as well as the psychological harm. In addition, juveniles housed in mixed facilities were often deprived of services provided in juvenile facilities.

The JJDP Act includes an exception that allows an alleged delinquent offender to be held for six hours for the purposes of processing, provided that separation is maintained. Juveniles returned for court appearances can be held up to six hours before and six hours after the appearances.

- *Court dates, including date and time, are required for monitoring.*

A further exception, commonly called the “removal exception,” permits holding for 24 hours in those areas too far from a juvenile detention center for immediate transport. The 2002 amendments expand this time to 48 hours.

The federal Removal Exception has a series of conditions that must be met.

- Juveniles are detained awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within 48 hours, excluding weekends and holidays, after being taken into custody. (Washington State law is more restrictive—within 24 hours.)
- The adult facility serves an area outside a Standard Metropolitan Statistical Area.
- There is no existing acceptable alternative placement available.
- The adult facility has been certified by the State to provide sight and sound separation of juveniles and incarcerated adults.

OJJDP must approve, and states must annually request re-certification of approved removal exception locations; i.e., those able to hold a juvenile delinquent offender up to 48 hours before an initial court appearance. The 10 approved Removal Exception locations are listed in Appendix C.

If the facility is located where conditions of distance to be traveled or the lack of highway, road or other ground transportation do not allow for a court appearance within the first 48 hours, excluding weekends and holidays, so that a brief delay is excusable; or is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow reasonably safe travel), in which the time for an appearance may be delayed another 48 hours after the time that such conditions allow for reasonable safe travel.

It should be noted that, although a county jail, such as the one in Ferry County, may be designated a removal exception facility and have 48 hours in which to hold an alleged delinquent offender awaiting an

initial appearance, a city within that county and the Sheriff are not accorded the same exception. Thus, a municipal law enforcement agency or a Sheriff may take a youth into custody in their own facilities for six hours but no longer. However, these same youth can be transferred to the jail facility that has a removal exception designation and be held for another 48 hours.

These extended time periods do not apply to the period following the initial court appearance. That period is still 6 hours.

Removal exception jurisdictions must maintain records of court appearances that show dates and times associated with these longer periods of detention.

State Statutes are consistent with federal requirements, as follows:

RCW 13.04.116 states that a juvenile shall not be confined in a jail or holding facility for adults, except for a period **not exceeding twenty-four hours** excluding weekends and holidays and only for the purpose of an initial court appearance in a county where no juvenile detention facility is available, a juvenile may be held in an adult facility provided that the confinement is separate from the sight and sound of adult inmates; or for no more than six hours and pursuant to a lawful detention in the course of an investigation, a juvenile may be held in an adult facility provided that the confinement is separate from the sight and sound of adult inmates. For purposes of this section, a juvenile is an individual under the chronological age of eighteen years who has not been transferred previously to adult courts. Washington State meets the federal removal exception requirements.

In Washington State, detention hearings can and do occur before the probable cause hearing. Superior Court, Juvenile Rule 7.3 states that the court “shall make every reasonable effort to conduct a hearing on the issue of detention by the end of the next judicial day” and thus excluding weekends and holidays. The actual time period will be influenced by the reality that local juvenile courts have pre-determined times for these hearings. If the hearing is always at 1:30 pm, then a youth taken into custody the day before at 9:00 am and not brought before the judge at 1:30 pm on that same day, then the detention period could exceed 24 hours, but would meet the JJDP 48-hour allowance.

Removal Exception jurisdictions are expected to follow the 24 hour rule, excepting weekends and holidays, (state statute) and not the 48-hour rule (JJDP Act) regardless of court rule. Law enforcement agencies in those counties and cities should have an agreement with the Juvenile Court to have detention hearings within 24 hours, excluding weekends and holidays. In addition, youth taken into custody before the regularly scheduled detention hearing should have a hearing on the same day. Youth taken into custody after the regularly scheduled detention hearing should have a hearing the following day. As an alternative, detention decisions can be and often are delegated to Juvenile Court staff. These too must be documented.

Juvenile courts have to provide court hearing or delegated detention decision date and time for monitors to assess compliance with this timing.

Separation of Juveniles from Adults in Jails and Lockups

Separation has been defined in this state as “accused or adjudicated delinquent juvenile offenders, status offenders and non offenders cannot have contact with adult inmates, including inmate trustees. Contact is defined to include any physical or sustained sight or sound contact. Sight contact is defined as clear visual

contact between adult inmates and juveniles within close proximity to each other, sound contact is defined as direct oral communication between adult inmates and juvenile offenders.”

Federal Requirements

One of the original provisions of the JJDP Act was to separate juveniles from adults in jails and lockups. As amended, the Act provides that juveniles, whether delinquents, status offenders or non-offenders, alleged or not, “shall not be detained or confined in any institution in which they have contact with adult persons incarcerated because they have been convicted of a crime or awaiting trial on criminal charges.” The JJDP language allows accidental or inadvertent contact between adults and juveniles.

The federal JJDP Act requires that Removal (Rural) Exception locations “must be certified by the state to provide for the sight and sound separation of juveniles and adults.”

The state submitted documentation in 2007 to the OJJDP as requested, to provide additional verification that each facility currently utilizing the Rural Exception in Washington meets the necessary criteria (and requested that 10 facilities be approved as non-MSA areas that meet the federal removal exception criteria). **The state received approval from OJJDP in May 2008 to utilize the Rural Exception in these ten facilities.** (See list of Rural Exception locations and their sight and sound separation capabilities in the Appendices.)

State Statutes are consistent with federal requirements, as follows:

RCW 13.04.116 states that:

“(1) A juvenile shall not be confined in a jail or holding facility for adults, except:

(a) For a period not exceeding twenty-four hours excluding weekends and holidays and only for the purpose of an initial court appearance in a county where no juvenile detention facility is available, a juvenile may be held in an adult facility *provided that the confinement is separate from the sight and sound of adult inmates*; or

(b) For not more than six hours and pursuant to a lawful detention in the course of an investigation, a juvenile may be held in an adult facility *provided that the confinement is separate from the sight and sound of adult inmates*.

Facilities built with state dollars during the late 1970s and 1980s, jails and few lockups, were required to provide sight and sound separation between males and females, juveniles and adults.

It is one of the few conditions of confinement standards still remaining as a state statute; the others have been passed to the local jurisdictions. Since 1990, a significant number of jails, even those constructed with state funds, have extensively remodeled, enlarged or built anew. Sight and sound separation was clearly on the minds of most of those responsible for these new or renewed buildings and remains so for the operators.

The Washington Association of Sheriffs and Police Chiefs (WASPC) provides for Commission on Accreditation for Law Enforcement Agencies (CALEA)-based accreditation inspections. Accreditation requires sight and sound separation. The commentary states:

“The intent of this standard is to ensure the segregation of three detainee types. Juveniles

should not be processed in the presence of adult violators and should be held in areas away from adult detainees. Females should be separated from areas where males are detained ...

Sound for the purpose of this standard is defined as normal/loud conversation and does not include deliberate yelling or screaming. Yelling and screaming should be controlled by persons supervising detainees ...

Agencies may comply with this standard by developing written procedural alternatives to avoid detaining males/females/juveniles in the same area. Compliance must be observed.”

Jail managers and officers know that sight and sound separation is required by state law. Some agencies make a practice of not having both adults and juveniles in their holding facility. A few have a separate area in which they routinely hold juveniles. Others have a more eclectic approach, using the holding facility if no adults are there, and turning to another location if adults are in holding.

Some jurisdictions have no choice but to use a holding facility cell, if a juvenile requires physical security. They try to prevent the adult or the juvenile from knowing that the other is there. They use the cell with the least sight and sound access. They screen the relites (holding cell windows) to insure sight separation as they move around the facility or if the cells face each other. They closely monitor any verbal interaction between a juvenile and a nearby adult, using either cameras, audio or staff presence.

Since most agencies have fingerprinting and photographic equipment, BAC or other intoxication measurement device, and now Life Scan in their holding facility, they are relieved to find that they can escort a juvenile into their booking area and use that equipment even when adults are in the nearby cells. They know that the arresting officer, the person responsible for the juvenile, must remain with the juvenile until those tasks are completed.

Housing of Remanded Juveniles

Federal Requirements

The Act notes that remanded juveniles are adults in the eyes of the court once a charge has been filed. As an adult they may be housed in an adult facility. Separation and time constraints no longer apply. Since they are still under the age of 18 and thus a juvenile, they may be housed in a juvenile facility. An August 2007 memo from the OJJDP Administrator revises previous interpretation of the adult inmate definition (which required remanded juveniles to be transferred to an adult facility once they reached the age of 18 and a half); the revised interpretation provides “that the continued placement of a member of the TCW population in a juvenile facility, not to exceed the state’s maximum age of extended juvenile jurisdiction, does not constitute a sight and sound separation requirement violation. This decision provides states the maximum flexibility allowed under the Act regarding the placement of members of the TCW population.”

State Statutes are consistent with Federal Requirements, as follows:

In February-March 2008, the former state advisory group (the GJJAC) distributed a framework for consideration to Sheriffs, Jail Administrators and Juvenile Court Administrators that provides a model policy/practice regarding the housing of remanded juveniles who are held locally pre-sentencing. The framework is based on the premise that pre-trial and pre-sentencing time should conform to the same

restrictions (at a minimum) as post-sentencing and commitment, with regard to the separation of remanded juveniles from adults.

Washington State laws require that juveniles transferred to adult criminal court be housed in a separate cell **if convicted and committed** to a term of confinement in an adult jail, or that they be placed in a separate housing unit from adult inmates **if committed** to a term of confinement in a DOC correctional facility (most remanded juveniles are transferred from DOC to JRA—per the Youthful Offender Program, and are held at Green Hill training school). Washington State law is silent on the question of separation of remanded juveniles during the pre-trial period if they are detained in an adult jail. State law does specifically provide that juveniles subject to adult superior court jurisdiction who are detained **pending trial may be detained** in a juvenile detention facility pending sentencing; they are not required to be sight and sound separated from non-remanded juveniles. Relevant state laws: RCW 13.04.030(4); 13.04.116; 72.01.415; 72.01.410.

The following framework was provided for consideration:

- **Develop an agreement or MOU** between the juvenile court director/administrator, adult jail/corrections administration, and superior court judges regarding the housing of juvenile declines or remands under age 18. The agreement would be in place for the time span from the transfer of the case to criminal court until they are convicted in, or discharged from, criminal court, and would provide that these youth would be housed at the local (or regional) juvenile detention facility during this time period.²
- **Transfer** any juvenile held initially (and for no more than six hours) for identification and other processing **from the local jail/corrections facility to the local juvenile detention facility**; the detention facility would be responsible for providing ongoing housing and age-appropriate services, including education, until the juvenile has been convicted in adult court of a criminal offense, or discharged from incarceration by the Court. The juvenile once remanded would be recorded on the jail's recordkeeping system regardless of facility location.
- The juvenile court/detention administration **would retain the discretion to transfer** or return any juvenile housed under the agreement **back to the jail** in the event of a significant management issue or security-related concern (i.e., dangerous, violent or destructive remanded juveniles that cannot be managed at the juvenile facility).
- **If remanded juveniles under age 18 are held in the adult jail, they should be segregated** from the adult population to the greatest extent possible (sight and sound separation), and housed in a separate cell or in a cell with other remanded juveniles **at a minimum**. A decline of jurisdiction order must be provided for any remanded juvenile housed in an adult jail at the time of booking. Age-appropriate services and education must be provided, and other special needs for juveniles must be considered, including mental health needs and nutritional requirements.

Previous policy recommended by the former state advisory group regarding the holding of remanded juveniles was drafted on 7/92 by Tom Davis, then Juvenile Court Administrator in Spokane and Rosalie McHale, then Chief, Juvenile Justice Section, Department of Social and Health Services.

“Juveniles sixteen (16) and seventeen (17) years old who have been arrested for offenses referred to or listed in RCW 13.04.030 (1) (e) (iv), and are under the “exclusive original jurisdiction” of the adult criminal court by this statute will first be placed in juvenile detention. The prosecutor will review the

² A written order that transfers the case to adult criminal court must accompany any remanded juvenile who is booked into the jail.

probable cause and identify the RCW to be charged. If the prosecutor's decision is written and is within the guidelines of RCW 13.04.030 (1) (e) (iv), the juvenile may be transferred to the jail. Juvenile Court will send the written decision with the juvenile when transporting to the jail."

RCW 72.01.410 permits convicted remanded juveniles to be transferred to Juvenile Rehabilitation Administration facilities, although they are officially considered adults. Washington's practice was to transfer these remanded youth to an adult facility when they became 18 and one-half years old, consistent with the former OJJDP interpretation of the separation requirement that was required of states, prior to August 2008.

They may also be transferred to the Department of Corrections. See the provisions for placement of a child under eighteen convicted of crime amounting to felony and their segregation from adult offenders.

(1) Whenever any child under the age of eighteen is convicted in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement in a correctional institution wherein adults are confined, the secretary of corrections, after making an independent assessment and evaluation of the child and determining that the needs and correctional goals for the child could better be met by the programs and housing environment provided by the juvenile correctional institution, with the consent of the secretary of social and health services, may transfer such child to a juvenile correctional institution, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child arrives at the age of twenty-one years, whereupon the child shall be returned to the institution of original commitment. Retention within a juvenile detention facility or return to an adult correctional facility shall regularly be reviewed by the secretary of corrections and the secretary of social and health services with a determination made based on the level of maturity and sophistication of the individual, the behavior and progress while within the juvenile detention facility, security needs, and the program/treatment alternatives which would best prepare the individual for a successful return to the community. Notice of such transfers shall be given to the clerk of the committing court and the parents, guardian, or next of kin of such child, if known.

(2)(a) Except as provided in (b) and (c) of this subsection, *an offender under the age of eighteen who is convicted in adult criminal court and who is committed to a term of confinement at the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from offenders eighteen years of age or older, until the offender reaches the age of eighteen.*

(b) An offender who reaches eighteen years of age may remain in a housing unit for offenders under the age of eighteen if the secretary of corrections determines that: (i) The offender's needs and the correctional goals for the offender could continue to be better met by the programs and housing environment that is separate from offenders eighteen years of age and older; and (ii) the programs or housing environment for offenders under the age of eighteen will not be substantially affected by the continued placement of the offender in that environment. The offender may remain placed in a housing unit for offenders under the age of eighteen until such time as the secretary of corrections determines that the offender's needs and correctional goals are no longer better met in that environment **but in no case past the offender's twenty-first birthday.**

(c) An offender under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender shall be kept physically separate from other offenders at all times.

COMPLIANCE AND STRATEGIES FOR ACHIEVING

Jail Removal

The numerical de minimis standard sets the upper limit of annual violations of Jail Removal at 9 per 100,000 in the juvenile population. For Washington, in 2010 the maximum number of violations allowed (or “upper limit”) was 138 violations (with a numerical de minimis rate of 9.0 per 100,000 juveniles).

DSO

The rates for Deinstitutionalization of Status Offenders (DSO) declined significantly in 2009 – see table below. The substantive de minimis standard is 29.4 per 100,000 juveniles; the numerical de minimis standard for DSO is 17.6 per 100,000 juveniles. For Washington State, since the state has a law in effect that allows runaway youth to be placed in secure facilities that is not consistent with federal law, the state must demonstrate full compliance, and is allowed only the de minimis exception of 0.1 to 5.7 (i.e., any rate above 5.8 would mean the state would not be eligible for a finding of compliance.)

Upper Limit on Annual Violations of Deinstitutionalization of Status Offenders

Year	Juvenile Population	Number of DSO Violations	0.0 Rate Full Compliance - 0 violations	0.1 to 5.7 Rate Full compliance with de minimis exception – allowable # of violations
2005	1,530,939	616	0	88
2006	1,548,886	518	0	89
2007	1,484,365	497	0	86
2008	1,536,368	469	0	89
2009	1,536,368	88	0	89
2010	1,536,368	62	0	89

Washington State was found out of compliance with the DSO requirement of the federal JJDP Act in the spring of 2000, as the number of youth (admissions) held in violation of the DSO requirement in Secure Crisis Residential Centers exceeded the de minimus rate allowable for Washington State under federal JJDP regulations for DSO. This was the case from FFY 2000 through FFY 2010; as a result of being out of compliance with DSO, the federal OJJDP penalized the state a cumulative total sum of \$2.7 million dollars.³ In September 2010, the state received notification, based on 2009 data reported in the June 2010 annual compliance monitoring report, that the state was in compliance with DSO, and hence eligible for the full Formula Grants Program allocation to the state in FFY 2011. The state was again found in compliance in 2011 (calendar year 2010 data), and hence is eligible for the full funding award for FFY 2012.

Technical Assistance from the State Advisory Group and the Compliance Monitors:

As of 2004, Washington State agencies (law enforcement agencies and jails) have received a copy of their compliance report and the compliance monitor’s recommendations. Sending these reports via email to individual agencies – that describe the facility’s compliance and discussing any problem areas, are viewed

³ The 2002 reauthorization of the JJDP Act allowed all states to receive the full award amount for FFY 2004. Prior to 2004, states were penalized 25 percent for each core requirement. From FFY 05 through 2010, Washington’s Formula Grant allocation was reduced by 20 percent per the JJDP Act of 2002. The state was also required to spend 50 percent of its remaining funds on efforts to achieve compliance (per the JJDP Act of 2002).

as a useful tool for encouraging compliance. In 2008, laminated postcard-size resource cards were distributed by the OJJ and compliance monitors as a guide for law enforcement officers on holding juveniles in secure custody, including specific information on the definition of a status offender.

Assistance From WASPC

Some states pass specific information on non-compliant law enforcement agencies and jails to their equivalent of WASPC. In effect, they are using peer pressure to insure compliance. Washington State has a ways to go before that is necessary.

The OJJ and Compliance Monitors have historically encouraged the Criminal Justice Training Academy (for both law enforcement and jail staff) to include JJDP Act requirements in their trainings. Its provisions are part of the certification process managed by WASPC; since 2008, the Academy has distributed the Office of Juvenile Justice laminated resource cards on holding juveniles in secure custody to new recruits. Issues around compliance have been, and will continue to be addressed at meetings of Chiefs and Sheriffs, and the Corrections Sub-Committee. There is also a law enforcement representative on the state advisory group.

Assistance From JCAs

Juvenile Court Administrators are encouraged to continue to communicate with the judges, prosecutors and public defenders in their court, so they have a clear understanding of the JJDP Act and its requirements.

It is important that Juvenile Court Administrators (JCAs) and their key detention screening staff know which law enforcement agencies in their catchment area hold juveniles securely and which do not. The compliance monitor shares information with the JCAs (regarding law enforcement agencies in their county and who securely holds, any compliance issues, etc.) on an individual basis (often an in-person meeting). The compliance monitors and OJJ Director meet regularly with Juvenile Court Administrators for the purpose of informing and discussing JJDP compliance issues. There is also a Juvenile Court Administrator (WAJCA) representative on the state advisory group.

Consequences of Continued Jurisdiction Non-Compliance

Procedures/Graduated Response to Address Violations of JJDP Act Core Requirements

1. A compliance monitor will verify that a violation has occurred, and will provide information and technical assistance to the identified agency to remedy the situation. If the violation is an isolated incident(s) and the agency has policies regarding juveniles that meet state and federal regulations, the monitor will communicate with the agency to ensure that a plan is in place to ensure that future violations do not occur. If an onsite monitoring visit was provided by the compliance monitor, the monitor will provide a written compliance monitoring report to the facility that includes a description of the violation(s) that occurred, along with recommendations and steps that are being put into place to remedy the situation, so future violations do not occur.

2. Technical assistance that may be provided to the agency/facility by the compliance monitor, as applicable, could include recommending changes to policies and procedures for juveniles held in the facility, training for officers/jail staff, additional volunteers or part-time staff for the facility, revised record-keeping methods, etc. Also, technical assistance can include recommendations for possible changes to the physical layout of the facility (e.g., timed release locks, contact door alarm to a non-secure interview room, etc.).

The OJJ will provide further technical assistance to the agency if requested.

3. The OJJ will follow the established guidelines and procedures regarding eligibility for Title V Community Prevention grant funding (including continuation funding for project applicants and compliance with the federal Act). The OJJ has a more detailed policy and procedure for addressing Title V issues.

4. Further action may include the assistance of the Washington Cities Insurance Authority and the Washington Association of Sheriffs & Police Chiefs (WASPC)—both have encouraged agencies to comply with state and federal regulations regarding jail removal, DSO, and sight and sound separation requirements.

5. The state advisory group may also consider suspending Formula grants funding (for currently funded projects in the local community or county) until the situation is remedied.

6. If an agency questions the authority of the Office of Juvenile Justice, DSHS, to monitor or enforce compliance, or does not comply with the compliance monitor's recommendations to bring the agency into compliance, the OJJ can enforce compliance through state law (see RCW 13.04.116 and 13.40.040) and through Executive Order directive (EO 10-03) that states the State Advisory Group for the state of Washington will comply with federal requirements, and specifically per section 3.c.: "The DSHS Office of Juvenile Justice shall: Monitor and evaluate the state's compliance with the Act."

Should further action become necessary, a state Attorney General Office opinion provided to the Office of Juvenile Justice in October 1987 responds directly to the issue of DSHS/OJJ enforcing compliance, and summarizes that "the power of DSHS (OJJ) to enforce compliance with RCW 13.04.116 through civil lawsuits is not less effective than the repealed power to close a jail."

Liability

The Washington Cities Insurance Authority, the provider of coverage to a significant number (approximately 100) of Washington's mid-sized cities and towns, decided several years ago that the liability of something happening to a juvenile held in violation of these state and federal regulations was greater than the value of holding that youth. Their attorney issued an opinion to that effect.

Clearly liability could be significant if a municipality was sued for violation of the Act under the provisions of the Civil Rights of Institutionalized Persons Act (CRIPA). Several Washington State jurisdictions have been successfully sued in the past for providing inadequate conditions for juveniles taken into custody.

MONITORING REQUIREMENTS

To insure that JJDP Act requirements are met, states must monitor all facilities within the state that may hold juveniles. Monitoring may be conducted by a public or private agency.

The monitoring plan must include:

- Identification of the monitoring universe
- Classification of the monitoring universe
- Inspection of facilities and record keeping system
- Collection and verification of data on juveniles held

State statutory provisions give DSHS the authority to monitor and enforce compliance with juvenile confinement in jails and holding facilities (RCW 13.04.116). Other oversight duties of DSHS, specified in RCW 74.13.036, cover monitoring regarding status offenders as required by the Act. (See AG letter dated 4/4/00.) The executive order creating the new state advisory group also designates -- per section 3.c.: "The DSHS Office of Juvenile Justice shall: Monitor and evaluate the state's compliance with the Act."

Universe of Facilities to Be Monitored

State monitors must describe the universe of facilities in which juveniles may be held. Not all facilities within the universe need to be monitored. Some are outside the scope of the state's authority, for example, federal agencies. Others are not secure. Some fall outside the purview of the Act, that is, the facility does not hold juveniles "pursuant to public authority."

Only officers authorized to make arrests of juveniles can detain pursuant to public authority. Under Washington statutes, law enforcement officers (peace officers) include city police officers; town marshals or deputy marshals; county sheriffs; deputy sheriffs, general authority Washington peace officers under RCW [10.93.020\(3\)](#); port district general authority law enforcement officers; state university or college general authority law enforcement officers; and public safety officers or directors of public safety of small cities or towns, not exceeding ten thousand residents.

Juvenile court probation counselors also have "all powers conferred upon sheriffs and police officers to serve process and make arrests of juveniles under their supervision for the violation of any state law or

county or city ordinance.” RCW 13.04.040 (5)

The following facilities are included in the universe, although not all need to be monitored.

Jails and Lockups, including law enforcement facilities with secure locations.

- Municipal Police Facilities (includes city jails and holding facilities)
- County Sheriff’s Facilities
- County Correctional Facilities
- Port Authority Facilities
- University Police

Juvenile Detention Facilities

Juvenile Rehabilitation Administration Facilities

Court Holding Facilities

Collocated Facilities

Department of Corrections Facilities

Secure Community-Based Facilities

Non-secure Community-Based Facilities

Bureau of Prisons Facilities

Tribal Facilities

Sporting Complexes*

Stores and Shopping Malls*

Amusement Parks*

*These facilities would only be monitored if they used off-duty police officers with power to arrest as security officers.

Classification of Facilities

The state’s monitors must also classify the facilities into those where monitoring is required and those that are not. Some are excluded under the federal act. Federal facilities and tribal facilities are excluded; others are excluded because they do not hold pursuant to public authority, such as a private secure treatment facility--no such facility operates within this state.

The monitors must also classify facilities by type of security. Only secure facilities are actually monitored. The classification of facilities must be re-visited annually so that any changes can be noted. Non-secure facilities must be visited to assess whether or not facility staff have correctly identified their level of security; per guidance received from the OJJDP Administrator in a February 2008 memo, “OJJDP also encourages states to spot check, on an annual basis, those law enforcement facilities that have annual written certification that they are non-secure.”

Some of the listed types of facilities are secure; some are not. The definition of secure is especially relevant to law enforcement facilities and to treatment facilities. Small rural police departments may share a city hall office with the city clerk and have no way to secure a juvenile or an adult.

The simplistic definition of secure is the juvenile is not free to leave the premises due to physical constraints. JJDP regulations define secure facilities as those “designed to restrict movement and

activities of persons in custody.” This includes locked rooms as well as buildings and fences. It does not include staff secure facilities. Facilities are secure if the delayed release on locked exit doors exceeds 30 seconds. Delayed release egress must be approved by local authorities with jurisdiction over fire codes. Delayed egress released only when fire alarms go off are considered secure. Cuff bars or benches with cuff rings wherever located are considered secure. The OJJDP February 2008 memo states, with regard to the definition of facility: “...the term encompasses a typical jail cell, as well as locations that have construction features capable of being locked and unlocked and intended to accomplish physical detention, such as law enforcement locations equipped with cuffing benches or cuffing rails.”

Some facilities have certified that they cannot securely hold. They have no lockable room, cuff bar, cuffing bench, or holding cell. These are typically small, rural departments. Others have certified that the holding of juveniles is against their policy. Many of these are county jails with juvenile detention facilities nearby. Some older municipal facilities do not hold juveniles because their space is not designed for sight and sound separation of juveniles from adults.

A list of facilities that securely hold is included in Appendix A. Appendix A also has the list of facilities that do not securely hold juveniles by policy, and those law enforcement locations that have been determined to be non-secure.

The following material applies primarily to adult jails, lockups and holding facilities:

Agency Reporting Requirements

Agency Data Form--Questionnaire (See Appendix D for form)

Collected per initial classification/verification and revised/updated if the agency’s status to securely hold has changed).

Compiled electronically.

Identifies which agencies are secure and will continue to be monitored per 3-year timetable.

Survey of Law Enforcement Facilities And Jails (See Appendix E for form)

Collected every six months from all facilities that are secure and may hold accused, delinquent-type juveniles temporarily; data may be verified onsite (per 3-year timetable).

Compiled electronically.

Used to identify agencies in need of follow-up/technical assistance, and who may require a phone consultation, email correspondence, or onsite visit.

Individual Data Collection Form (See Appendix F for form)

Collected semi-annually from facilities (as applicable for identified/confirmed violations).

Collated with Survey data. Should agree with Survey -- i.e., if one status offender reported securely detained, one data collection form should be submitted including information on specific circumstances (e.g., officer error, training provided, etc.)

Compiled electronically for cases of non-compliance.

Checked for accuracy (10% to 100%) if agency is selected for a site visit.

Memo Certifying That Secure Agency Does Not Hold Juveniles (See Appendix G for sample letters)

Collected annually (secure agencies provide annual written re-certification that their policy not to securely detain juveniles has not changed).
Onsite visits should occur once every three years.

Memo to Non-Secure Law Enforcement Facilities certifying agency does not have the ability to hold in secure custody/confinement

Distributed annually (non secure facilities/agencies are annually contacted and requested to notify the Office of Juvenile Justice if their status has changed—flowchart on secure holding also sent with memo).
Periodic onsite visits, on spot-check basis.

Data for All Facilities is Maintained

An excel spreadsheet provides data on all law enforcement facilities and jails in the universe; the compliance monitoring coordinator continually updates this data file that includes information compiled from the agency data forms and most recent onsite monitoring reports from inspections conducted. This spreadsheet provides the agency's classification information, county location, as well as the date of the last monitoring visit and next scheduled visit (and compliance monitor assigned).

Additionally, a table in Word format is accordingly updated to record any changes to facility classification that provides a summary of the following categories: Facilities that are secure and hold, with breakdowns by city and county lockups, city jails/holding facilities, and county jails; a list of all secure facilities that do not hold juveniles by policy; and a list of all non secure law enforcement facilities (alpha by agency).

Information from each six month Survey is compiled electronically via an Excel spreadsheet that includes all categories of data required for the annual compliance monitoring report to OJJDP, including facility classification (and removal exception facilities), number of juveniles detained, etc.

In addition, there are paper copies of all prior onsite monitoring reports, policies and procedures collected from individual agencies, questionnaires (agency data forms), logs and agency self-reports/surveys alphabetized by agency and organized in notebooks.

The compliance monitors maintain a binder of the most recent forms, information and relevant laws to use at onsite compliance monitoring visits, along with the resource cards and posters.

Inspections or Site Visits (for Jails/Lockups/Holding Facilities)

OJJDP expects that a minimum of ten percent of the various types of agencies in the universe, i.e. juvenile rehabilitation facilities, juvenile detention facilities, collocated facilities, adult jails, and lockups will be inspected each year, and that states will strive to inspect onsite all secure facilities once every three years (i.e., that 100% will be visited every three years). The Office of Juvenile Justice compliance monitors will strive to visit all secure law enforcement facilities that may hold juveniles at least once every three years, and will make every attempt to also conduct onsite inspections of secure agencies that have provided written certification they do not hold juveniles by policy, also at a frequency of 100% every three years. In addition, any agencies/facilities that have been identified by the compliance monitor or OJJ staff in need of follow-up or technical assistance may be visited more frequently and prioritized, or those facilities that have made recent changes in the physical structure of the facility, or other changes in the agency/department (new Police Chief, Sheriff, etc.). A 3-year timetable is maintained and updated.

Inspections are for the purposes of:

- Seeing the physical plant and verifying the facility's classification;
- Reviewing the agency's most recent policies and procedures and ensuring they meet federal (and state) laws;
- Testing policies and procedures adherence with operational staff; and
- Checking the validity of record-keeping (includes verifying information provided on the past 6-12 months of self-reported surveys, and ensuring there are no violations).
- Determining if there are any technical assistance needs for the agency regarding jail removal and separation, etc.

That inspection does not necessarily need to occur after the individual data collection forms have been submitted.

Monitors carry a comprehensive binder of materials on these site visits (inspections), including:

- Information on agency data collection and inspection process, including forms, a model SOP (see Appendix H), sample custody log, background information on monitoring, sample certification letters, link to the WA-PCJJ/OJJ website—law enforcement information page
- Relevant state and federal laws, including OJJDP flowchart
- Posters summarizing federal and state laws regarding holding juveniles (and sample posters for secure agencies that by policy do not detain juveniles)
- Checklist for determining secure status of facility
- Handout on Scared Straight/Prison Preview Programs and the JJDP Act
- Post-card size laminated resource cards for officers on the secure holding of juveniles

Inspection Process:

- Describe process if a new contact person
- Walk through the facility
- Record location of holding for juveniles and juvenile/adult movement on facility layout.
- Review agency's last onsite monitoring report, and most recent 6-month Survey or current calendar year Surveys of compliance with secure/non-secure and separation. Revise self-reporting Survey forms, if necessary.
- Review and request copy of current policies and procedures with staff. Ask an officer how they

handle a juvenile offender and a status offender (specifically a MIP and/or runaway).

Review sample of record keeping, or all records/logs of juveniles detained during the calendar year.

Raise any questions about how records are kept, such as who makes entries, any training on record keeping, who does checks for accuracy.

Verify a sample of the data collected, 10% to 100% as possible. In S-CRCs, examine at least 10 percent of the records, 100 percent if fewer than 50.

Check specific records where incidents of non-compliance to insure all are valid.

Ask about barriers to compliance.

Debrief.

- a. Describe incidents of non-compliance (if applicable)
- b. Review barriers to compliance
- c. Suggests ways to address barriers
- d. Describe consequences of statewide non-compliance, of local non-compliance.

Correct written reports and electronic versions.

Write report (including recommendations) and send copy (via email) to individual agency (OJJ staff created a 2-page report form/format for recording findings from individual onsite visits, and general information to include with email draft of onsite report).

Copies of individual onsite monitoring reports are alphabetized and filed in binders and organized by state fiscal year.

These individual agency reports have been shared with local jurisdictions since 2004.

Report to OJJDP

The OJJ compliance monitoring coordinator compiles the data and information for this annual report to OJJDP. OJJ staff use data from the monitors' reports for this purpose and created an electronic spreadsheet for recording information from survey forms. They occasionally may contact individual agencies or local juvenile court staff, as required, for additional clarification.

Timetable

Tasks

- | | |
|---|--|
| 1. Complete contract (for 12 months) with principal compliance monitor of adult jails and lockups | Mid-June, to start July 1 |
| 2. Letter and Survey emailed (1 st 6 months calendar year data) | Late June or Early July |
| 3. Memo/annual certification form mailed to secure facilities that by policy don't hold juveniles | September |
| 4. Memo to non-secure facilities mailed | October/November |
| 5. Letter and Survey emailed (2nd 6 months calendar year data) | Late December or Early January |
| 6. Receipt of Surveys/self-reports from agencies | Due to OJJ in August and February |
| 7. Survey data is reviewed & compiled via Excel spreadsheets | As available/ on-going |
| 8. Compliance Monitors contact agencies for clarification of Surveys & provide TA as applicable | As needed/ ongoing |
| 9. Entry of report data | On-going |
| 10. Selection of sites to visit | Per 3-yr timetable and as prioritized by staff |
| 11. Site visits | Year-round |
| 12. Completion of Individual Onsite Monitoring Reports | On-going |
| 13. Submission of report to OJJDP | Due June 30th |
-

Inspections or Site Visits (for Juvenile Detention Centers)

Data Collection

1. The OJJ collects data annually from the Administrative Office of the Courts (AOC) on a calendar year basis.
2. In 2005-2006, a new web-based Juvenile and Corrections System (JCS) application was implemented in the state for reporting data from these facilities to the AOC; all of the juvenile courts are utilizing this system for reporting data, with the exception of King and Mason counties. For calendar years 2006 and 2007, this new data system was utilized by the AOC to identify status offenders held in detention facilities. Some facilities also maintain a secondary database system, and utilize data from the secondary system to verify the AOC data; others query the JCS system. Data from King and Mason counties is submitted annually to the OJJ and verified onsite every three years. Data from the Martin Hall regional detention facility is also submitted annually to the OJJ and is verified onsite once every three years. (In summary, 3 of the 22 detention facilities report data separately to the OJJ.)

On-Site Monitoring

On-site inspection and verification of data is conducted by OJJ staff. It is anticipated that, on average, 7 to 8 detention centers annually will be monitored, and that every effort will be made to monitor juvenile detention facilities onsite once every three years (from a minimum of 10 percent to 36 percent of total detention centers annually). Technical assistance was provided by OJJDP regarding the current detention monitoring process, taking into consideration JJDP Act 2002 requirements regarding the VCO exception and steps for verification. Also, the OJJ incorporated recommendations from the October 2005 OJJDP onsite compliance monitoring visit report (conducted by Elissa Rumsey and Julie Herr) into the detention monitoring process.

- a. Facility tour is conducted.
- b. Detention manager and/or the Juvenile Court Administrator, or other relevant staff are interviewed (revised survey/questionnaire completed by the facilities includes an outline of the steps in the federal VCO checklist—for courts that have not yet provided documentation to the OJJ).
- c. Review of the VCO process and checklist is verified.
- d. Juvenile court administration and the OJJ sign a written confidentiality agreement.
- e. Sampling of data is reviewed (at least 20 files or 10 percent of the total records on status offender admissions will be reviewed, **whichever is greater**, and up to a maximum of 100 files will be reviewed).
- f. Any data discrepancies are identified and corrected.

Timetable:

Data is collected from AOC and individual facilities & analyzed.	February-March
Reports are sent to juvenile courts with summary of data.	March-May
Onsite inspection of facilities and verification of data	May-June

Noncompliance: If instances of noncompliance are found, OJJ will provide technical assistance to the facility.

APPENDIX A: UNIVERSE OF FACILITIES

BY TYPE AND CLASSIFICATION

Adult Jails, Lockups and Non-Secure Law Enforcement Facilities

as of 3/2012 ⁴

Total Number of Agencies – 301

Total Number of Facilities – 349

146 Facilities/131 Agencies - Secure and Hold		
City and County Lockups	City Jails and Holding Facilities	County Jails
<ol style="list-style-type: none"> 1. Algona Police Department 2. Anacortes Police Department 3. Bainbridge Island Police Dept. 4. Battle Ground Police Dept. 5. Benton County Sheriff's Office 6. Black Diamond Police Dept. 7. Blaine Police Department 8. Bremerton Police Department 9. Brewster Police Department 10. Brier Police Department 11. Cle Elum-Roslyn-South Cle Elum Police Department 12. Clyde Hill Police Department 13. Coulee Dam Police Department 14. Cowlitz County Sheriff's Office 15. Douglas County Sheriff's Office-Bridgeport 16. Dupont Police Dept. 17. Ellensburg Police Department 18. Elma Police Department 19. Enumclaw Police Department 20. Federal Way Police Department 21. Ferndale Police Department 22. Fife Police Department 23. Grandview Police Department 24. Granger Police Department 25. Hoquiam Police Department 26. Issaquah Police Department 27. Jefferson County Sheriff's Office—Port Hadlock 28. Kalama Police Dept. 29. Kelso Police Dept. 30. Kennewick Police Dept. 31. Kent Police Department 32. King County Sheriff West Precinct (Burien) Vashon Island Substation North Bend PD Sammamish PD Woodinville PD 33. Kitsap County S.O.—Silverdale Substation 34. Lacey Police Department 35. Lake Stevens Police Dept. 36. Liberty Lake Police Dept. 37. Lincoln County Sheriff's Office 38. Longview Police Department 39. Lynden Police Department 40. Lynnwood Police Dept. 41. Mabton Police Dept. 	<ol style="list-style-type: none"> 1. Aberdeen PD/City Jail 2. Arlington Police Department 3. Auburn Police Dept. 4. Bellevue Police Department 5. Bothell Police Department 6. Burlington Police Department 7. Camas Police Department 8. Cheney Police Department 9. Des Moines Police Department 10. East Wenatchee Police Dept. 11. Edmonds Police Department 12. Enumclaw City Jail 13. Everett Police Dept. 14. Forks City Jail 15. Gig Harbor Police Department 16. King County Sheriff East Precinct North (Kenmore) Precinct #4 (SeaTac PD) Precinct #5 (Shoreline PD) 17. Kirkland PD/City Jail 18. La Center Police Department 19. Lake Forest Park Police Dept. 20. Lakewood Police Department 21. Lynnwood City Jail 22. Mercer Island Police Dept. 23. Mill Creek Police Department 24. Milton Police Department 25. Monroe City Police Department 26. Morton Police Department 27. Moses Lake Police Department 28. Mountlake Terrace Police Dept. 29. Mukilteo Police Department 30. Normandy Park Police Dept. 31. Oak Harbor City Jail/PD 32. Ocean Shores Police Dept. 33. Othello Police Department 34. Port of Seattle Police Dept. and Waterfront Station 35. Prosser Police Department 36. Pullman Police Department 37. Puyallup City Jail 38. Redmond Police Department 39. Renton PD (holding cells in jail) 40. Seattle Police Department North Precinct West Precinct East Precinct South Precinct Southwest Precinct Headquarters (6th/7th Floors) 	<ol style="list-style-type: none"> 1. Ferry County Jail 2. Jefferson County Jail 3. Klickitat County Jail 4. Pacific County Jail 5. Pend Oreille County Jail/SO 6. San Juan County Jail 7. Skamania County Jail/SO 8. Stevens County Jail 9. Wahkiakum County Jail

⁴ Lockup = does not have a secure perimeter and is not staffed—but the juvenile can be held securely, such as a lockable interview room; cells along a hallway; or a cuff ring, bar or bench. Holding facility = a facility with a secure perimeter—commonly has several holding cells, but is not staffed, and typically provides temporary, short-term holding (meets federal definition of a lockup). Jail = has a secure perimeter and is staffed.

42. Marysville Police Department 43. Mount Vernon Police Dept. 44. Olympia Police Department 45. Omak Police Department 46. Orting Police Department 47. Pacific Police Department 48. Pacific County Sheriff's Office— Long Beach 49. Pend Oreille County Sheriff's Office--Newport 50. Pierce County Sheriff-- Edgewood Police Dept. 51. Port Angeles Police Dept. 52. Port Townsend Police Dept. 53. Quincy Police Department 54. Sedro Woolley Police Dept. 55. Selah Police Department 56. Sequim Police Department (and Clallam County SO Substation) 57. Snohomish Police Dept. 58. Snohomish County Sheriff -- (North & South Precincts) Snohomish Sheriff-Stanwood PD Snohomish Sheriff-Sultan PD/East Precinct 59. Spokane Airport Police Dept 60. Spokane County Sheriff's Office HQ 61. Steilacoom Police Department 62. Sunnyside Police Dept. 63. Tieton Police Department 64. Tumwater Police Department 65. Union Gap Police Department 66. University of Washington PD 67. Wapato Police Dept. 68. Warden Police Dept. 69. Westport Police Department 70. Whatcom County Sheriff 71. Woodland Police Department 72. Yakima Police Department 73. Yelm Police Department 74. Zillah Police Department	41. Shelton Police Department 42. Snoqualmie Police Department 43. Sunnyside City Jail 44. Sumner Police Department 45. Tacoma Police Department HQ 46. Tukwila Police Department 47. University Place Police Dept. 48. Washougal Police Department	
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69 Facilities/62 Agencies – Secure (But Don't Hold Juveniles by Policy)	
City Agencies	County Agencies
1. Bonney Lake Police Dept. 2. Buckley City Jail 3. Carnation-Duvall Police Dept. 4. Chewelah Police Dept. 5. College Place Police Dept. 6. Fife City Jail 7. Fircrest Police Department 8. Grand Coulee Police Department 9. Grandview City Jail 10. Issaquah City Jail 11. Kent City Jail 12. McCleary Police Department 13. Marysville Jail 14. Olympia City Jail 15. Oroville Police Dept. 16. Pasco Police Department 17. Richland Police Department 18. SCORE Regional Jail (in Des Moines) 19. Spokane Police Dept.—HQ and Gardner Bldg. 20. Tonasket Police Department 21. Toppenish City Jail/PD 22. Vancouver PD East & West Precincts 23. Wapato City Jail 24. West Richland Police Dept.	1. Adams County Jail 2. Asotin County Jail 3. Benton County Jail 4. Chelan County Jail 5. Chelan County Sheriff - Chelan Substation 6. Clallam County Sheriff HQ 7. Clallam County Jail 8. Clark County Jail 9. Columbia County Jail 10. Columbia County Sheriff's Office 11. Cowlitz County Jail 12. Franklin County Jail 13. Garfield County Jail 14. Grant County Jail 15. Grays Harbor County Jail 16. Grays Harbor County Sheriff's Office 17. Island County Jail 18. King County Jail KCCF MRJC 19. King County Sheriff – Criminal Investigation Division (CID) Intl. Airport/Boeing Field Newcastle Police Dept.

<p>25. Yakima City Jail</p>	<p>20. Kitsap County Jail 21. Kittitas County Jail 22. Lewis County Jail 23. Lincoln County Jail 24. Mason County Jail 25. Okanogan County Jail 26. Pierce County Jail 27. Skagit County Jail 28. Skagit County Sheriff's Office 29. Snohomish County Jail 30. Snohomish County Sheriff's Office-- Headquarters 31. Spokane County Jail (Main Facility) Spokane County Jail—Geiger Corrections Ctr 32. Spokane County Sheriff—Spokane Valley Police Dept and Medical Lake PD 33. Thurston County Jail 34. Walla Walla County Jail 35. Whatcom County Jail 36. Whitman County Jail 37. Yakima County Jail</p>
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134 Facilities/108 Agencies – Non-Secure, Can't Hold

<p>1. Adams County Sheriff's Office 2. Airway Heights Police Department 3. Asotin County Sheriff's Office 4. Asotin Police Department 5. Auburn Police Department 6. Bellingham Police Department 7. Bingen-White Salmon Police Department 8. Buckley Police Department 9. Castle Rock Police Department 10. Centralia Police Department 11. Central Washington University Police 12. Chehalis Police Department 13. Chelan County Sheriff's Office Cashmere Leavenworth Main Office – Wenatchee 14. Clark County Sheriff's Office HQ, Central Precinct & West Precinct 15. Clarkston Police Department 16. Colfax Police Department 17. Colton Police Department 18. Colville Police Department 19. Connell Police Department 20. Coulee City Police Department 21. Cosmopolis Police Department 22. Coupeville Marshall's Office 23. Douglas County Sheriff East Wenatchee Office Mansfield Rock Island 24. Eastern Washington University Police Dept. 25. Eatonville Police Department 26. Ephrata Police Department 27. Elmer City Police Department 28. Evergreen Campus Security 29. Everson Police Department 30. Ferry County Sheriff's Office 31. Forks Police Department 32. Franklin County Sheriff's Office 33. Garfield Police Department 34. Garfield County Sheriff's Office 35. Goldendale Police Department 36. Granite Falls Police Department 37. Grant County Sheriff's Office—Ephrata, Moses Lake Substation, George Substation & Desert Aire 38. Island County Sheriff's Office 39. Kettle Falls Police Department</p>	<p>42. Kitsap County Sheriff's Office--Port Orchard and Kingston 43. Kittitas Police Department 44. Kittitas County Sheriff's Office 45. Klickitat County Sheriff's Office 46. Langley Police Department 47. Lewis County Sheriff's Office 48. Long Beach Police Department 49. Longview Police Dept. (downtown substation) 50. Malden Police Department 51. Maple Valley Police Dept. 52. Mason County Sheriff's Office 53. Mattawa Police Department 54. Medina Police Department 55. Montesano Police Department 56. Mossyrock Police Department 57. Moxee Police Department 58. Napavine Police Department 59. North Bonneville Police Department 60. Oakesdale Police Department 61. Oakville Police Department, Grays Harbor Sheriff 62. Odessa Police Department 63. Okanogan County Sheriff's Office Okanogan Cty SO -- Conconully Police Dept. 64. Pacific County Sheriff's Office HQ—South Bend 65. Palouse Police Department 66. Pe Ell Police Department 67. Pend Oreille County S.O.—Ione Substation Cusick Substation 68. Pierce County Sheriff's Office 69. Port of Pasco Police Department 70. Port Orchard Police Department 75. Poulsbo Police Department 71. Puyallup Police Department 72. Raymond Police Department 73. Reardon Police Department 74. Renton Police Department 75. Republic Police Department 76. Ridgefield Police Department 77. Ritzville Police Department 78. Rosalia Police Department 79. Roy Police Department 80. Royal City Police Department 81. Ruston Police Department 82. San Juan County Sheriff's Office 83. Skagit County SO—Concrete PD and LaConner PD 84. Soap Lake Police Department</p>
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<p>40. Kent Police Dept.—East Hill & West Hill Substations</p> <p>41. King County Sheriff Beaux Arts Village Covington Police Department East Precinct South (Covington-storefront) Maple Valley Police Department Metro Transit Special Operations Division-Boeing Field Skykomish Police Department</p>	<p>85. South Bend Police Department</p> <p>86. Springdale Marshall's Office</p> <p>87. Stevens County Sheriff's Office--Colville & Northport</p> <p>88. Sumas Police Department</p> <p>89. Tacoma Police Department Eastside Precinct Wapato Lake Substation Norpoint (NE Tacoma) Substation Orchard Substation</p> <p>90. Tenino Police Department</p> <p>91. Thurston County Sheriff's Office</p> <p>92. Toledo Police Department</p> <p>93. Twisp Police Department</p> <p>94. Uniontown Police Department</p> <p>95. Vader Police Department</p> <p>96. Vancouver PD Headquarters</p> <p>97. Wahkiakum County Sheriff's Office</p> <p>98. Walla Walla Police Department</p> <p>99. Walla Walla County Sheriff's Office</p> <p>100. Washington State University PD (Pullman and Vancouver Branch)</p> <p>101. Wenatchee Police Department</p> <p>102. Western Washington Univ. Police Department</p> <p>103. Whitman County Sheriff's Office Tekoa Substation Albion Substation</p> <p>104. Wilbur Police Dept.</p> <p>105. Winlock Police Department</p> <p>106. Winthrop Police Department</p> <p>107. Woodway Police Department</p> <p>108. Yakima County Sheriff's Office</p>
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Court Holding Facilities (2)

Douglas County Sheriff's Office---Waterville
Jefferson County Sheriff's Office---Port Townsend

Collocated Facilities (1)

Whitman County Short-Term Juvenile Detention facility – collocated with Whitman County Adult Jail

Department of Corrections Facilities – Adult, all secure – Prisons (12) and Work Release facilities (15) (Note: Adult prisons and work release facilities operated by the DOC are not monitored by Office of Juvenile Justice compliance monitors/staff)

1. Airway Heights Corrections Center
 2. Cedar Creek Corrections Center
 3. Clallam Bay Corrections Center
 4. Coyote Ridge Corrections Center
 5. Larch Corrections Center
 6. Mission Creek Corrections Center for Women
 7. Monroe Correctional Complex (facilities: Washington State Reformatory, Twin Rivers Unit, Special Offender Unit, and Minimum Security Unit)
 8. Olympic Corrections Center
 9. Stafford Creek Corrections Center
 10. Washington Corrections Center
 11. Washington Corrections Center for Women
 12. Washington State Penitentiary
-
1. Ahtanum View Work Release (Yakima County)
 2. Bellingham Work Release (Whatcom County)
 3. Bishop Lewis Work Release (King County)
 4. Brownstone Work Release (Spokane County)
 5. Clark County Work Release (Clark County)
 6. Eleanor Chase House (Spokane County)
 7. Helen B. Ratcliff Work Release (King County)
 8. RAP/Lincoln Park (Pierce County)
 9. Longview Work Release (Cowlitz County)
 10. Madison Inn Work Release (King County)
 11. Olympia Work Release (Thurston County)
 12. Peninsula Work Release (Kitsap County)
 13. Progress House (Pierce County)
 14. Reynolds Work Release (King County)
 15. Tri-Cities Work Release (Benton County)

Local Juvenile Detention Facilities – all secure (22)

1. Benton/Franklin Juvenile Detention
2. Chelan
3. Clallam
4. Clark
5. Columbia/Walla Walla
6. Cowlitz
7. Grant
8. Grays Harbor
9. Island
10. King
11. Kitsap
12. Lewis
13. Mason
14. Martin Hall – (serves 9 counties: Adams, Asotin, Douglas, Lincoln, Ferry/Pend Oreille/Stevens, Spokane and Whitman)
15. Okanogan
16. Pierce
17. Skagit
18. Snohomish
19. Spokane
20. Thurston
21. Whatcom

22. Yakima

Secure Crisis Residential Facilities (located within secure Juvenile Detention Centers)

1. Chelan County Juvenile Center
2. Clallam County Juvenile Court

State Department of Juvenile Rehabilitation Facilities

Juvenile Secure Training Schools/Basic Training Camp Facilities (4)

1. Green Hill School
2. Echo Glen Children's Center
3. Naselle Youth Camp
4. Camp Outlook Basic Training Camp

Staff-secure Community Facilities for JRA Youth (8 community facilities – 118 beds)

1. Canyon View Community Facility, JRA – East Wenatchee
2. Oakridge Community Facility, JRA – Lakewood
3. Parke Creek Community Facility, JRA – Ellensburg
4. Ridgeview Community Facility, JRA – Yakima
5. Sunrise Community Facility, JRA - Ephrata
6. Touchstone Community Facility, JRA-Olympia
7. Twin Rivers Community Facility, JRA – Richland
8. Woodinville Treatment Center, JRA – Woodinville

Non-secure Community-Based Facilities

Staff-Secure Crisis Residential Centers (4)

1. Daybreak of Spokane
2. EPIC of Yakima, EPIC Youth Services
3. Oak Grove, JANUS Youth Programs--Vancouver
4. Spruce Street, Pioneer Human Services--Seattle

Regional Crisis Residential Centers (7)

1. YFA Connections, Spokane
2. Epic Youth Services, Yakima
3. Cedar House, Everett
4. Pioneer Human Services, Seattle
5. Allen Renaissance, Tacoma
6. Community Youth Services, Olympia
7. JANUS Youth Programs, Vancouver

HOPE Centers (9)

1. YFA Connections, Spokane
2. Positive Directions, Yakima
3. Service Alternatives, Yakima
4. Cocoon House, Everett
5. Service Alternatives, Arlington and Lynden
6. YouthCare, Seattle
7. Faith Homes, Tacoma
8. Community Youth Services, Olympia
9. JANUS Youth Programs, Vancouver

Responsible Living Skills Programs--RLSP (7)

1. Helping Hands, Spokane

2. (no provider at this time), Yakima
3. Cocoon House, Everett
4. Youth Net, Mount Vernon
5. YouthCare, Seattle
6. Pierce County Alliance, Tacoma
7. Community Youth Services, Olympia

Mental Health Treatment Facilities

(For children only. Civil commitment procedures—up to 180 days)

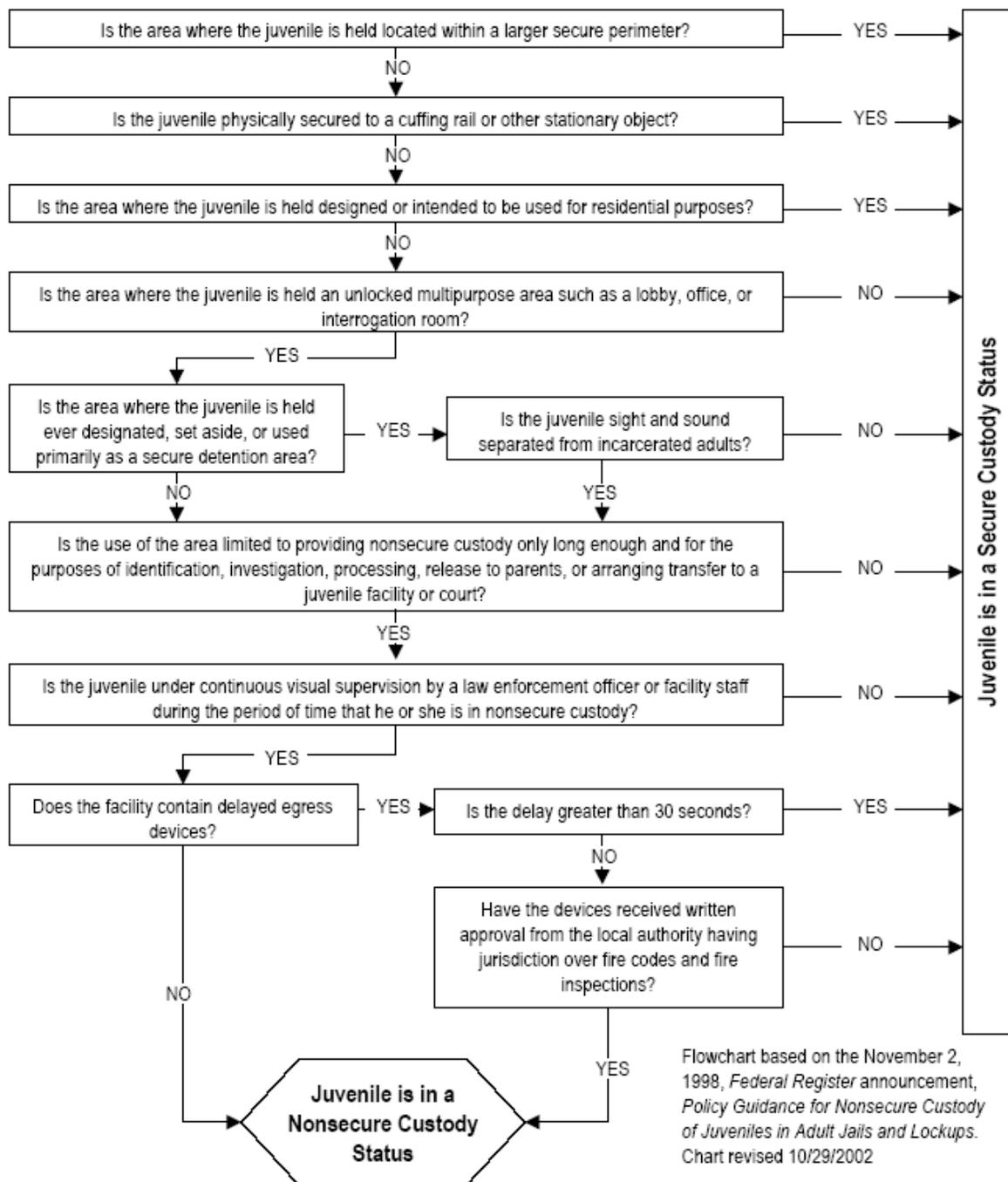
Children’s Long-Term Inpatient Programs—CLIP (4)

There are no physically secure facilities, given state licensure requirements for egress.

1. Child Study & Treatment Center in Lakewood; state-operated psychiatric hospital for children ages 6 to 17 - 47 publicly funded beds within 3 cottages
2. McGraw Center – operated by Seattle Children’s Home, located in Seattle – 19 publicly funded beds
3. Pearl Street Center, Tacoma Comprehensive Mental Health in Tacoma – 12 publicly funded beds
4. Tamarack Center, overseen by Spokane County, located in a rural setting in Spokane – 13 publicly funded beds, with capacity to serve 3 additional children on a private-pay basis.

APPENDIX B: FLOW CHART

Flowchart To Determine if a Juvenile Is in a Secure or Nonsecure Custody Status in an Adult Jail or Lockup



APPENDIX C: REMOVAL EXCEPTION FACILITIES (10)

Sight and Sound Separation Certified by Monitor and required verification forms Submitted

- Othello Police Dept. (new facility meets the federal definition for a lockup; former jail was closed)
- Adams County Jail
- Ferry County Jail
- Garfield County Jail
- Jefferson County Jail
- Klickitat County Jail
- Pacific County Jail
- San Juan County Jail
- Skamania County Jail
- Wahkiakum County Jail

APPENDIX D: AGENCY DATA FORM (QUESTIONNAIRE)

Agency:	Date:	
Chief:	Tel.	
Agency Contact Person:	Tel.	
Please check or circle the appropriate answer to the following questions.		
1. Is it your practice to hold juveniles temporarily before releasing, or transporting them to juvenile detention or to court?	Yes	No
2. Are your exterior doors locked at all times?	Yes	No
3. If your locked exterior doors have a time release, how quickly do they release?	Within 30 seconds?	Within more than 30 seconds?
4. Are the interior places you hold juveniles:		
Locked at all times?	Locked at officer's discretion?	Never locked?
5. Do the locked interior doors described above have a time release? How quickly do they release?	Within 30 seconds?	Within more than 30 seconds?
If multiple locations, please describe areas in which you hold juveniles and whether secure or not.		
6. Do you secure juveniles to a cuffing rail or other stationary object?	Yes	No
7. Is the juvenile under continuous visual supervision:		
While they are in secure custody:	Yes	No
While they are in non-secure custody:	Yes	No
8. Do you keep a record of juveniles temporarily detained in your facility?	Yes	No
<u>Please attach</u> a blank copy of your form for recording juveniles held in your facility.		
<u>Please attach</u> a copy of your policies and procedures regarding the holding of juveniles, either delinquent offenders or status offenders.		
<p>PLEASE RETURN THIS FORM (and attachments, as applicable) to: Office of Juvenile Justice, P.O. Box 45828, Olympia, WA 98504-5828 or Fax to: (360) 902-7527 Thank you.</p>		

APPENDIX E: 6-MONTH (SEMI-ANNUAL) REPORTING FORM

Office of Juvenile Justice, DSHS SURVEY OF ADULT LOCKUPS, HOLDING FACILITIES & JAILS (6-Month Self-Reporting Form)

NAME OF FACILITY: _____

Classification: up to 6-hour holding 72-hour holding 30-day holding Detention Correctional

FOR THE PURPOSE OF COMPLETING THIS SURVEY, A JUVENILE IS DEFINED AS A YOUTH UNDER THE AGE OF 18 WHO HAS NOT BEEN REMANDED TO AN ADULT COURT PURSUANT TO RCW 13.40.110 or 13.04.030, OR WHO IS OTHERWISE UNDER ADULT COURT JURISDICTION.

The Reporting Period is for **July 1, 2011 to December 31, 2011**.

1. Did you **securely detain any juveniles** for any length of time in your facility during this time period? Yes No
(Do not count youth accompanied by the arresting officer and in a secure area only for the purpose of being fingerprinted and photographed.)
If No, skip to question # 8.
2. How many **non-remanded juveniles accused of a criminal-type offense** (i.e., an accused delinquent) were **securely detained** in your facility during the 6-month reporting period of July 1, 2011, through December 31, 2011? _____ (Please note that your answers to questions a. through d., below, should equal this number.)
 - a. How many **of those accused of a criminal offense** were securely detained in your facility **for less than 6 hours for the purpose of** identification, investigation, processing, release to parent(s), or transfer to court or a juvenile facility following initial custody? _____
 - b. Were any juveniles who were **accused of a criminal offense** securely detained in your facility for less than 6 hours **for purposes other than** identification, investigation, processing, release to parent(s), or transfer to court or a juvenile facility following initial custody? Yes No
If Yes, for what other reason? _____
 - c. How many **of those accused of a criminal offense** were securely detained **longer than 6 hours** before being released or transferred? _____
(Please complete a separate form – an OJJ data collection form -- for any juvenile who was securely detained for over six hours, **including the specific circumstances for not meeting the six hour hold allowance**—please do not include confidential information on the form.)
 - d. How many **non-remanded juveniles accused of a criminal offense or of being in violation of a court order** were returned from juvenile detention and securely detained awaiting a court appearance? (This does not include holding cells adjacent to the courtroom and used for temporary holding awaiting an appearance.) _____
(Your answers to i. and ii. below should equal this total number.)
 - i. How many of those securely detained awaiting a court appearance were held **less than** six hours before and/or six hours after that appearance? _____
 - ii. How many of those securely detained awaiting a court appearance were held **more than** six hours before and/or six hours after that appearance? _____ (Please complete a separate form (OJJ data collection form) for any juvenile who was securely detained for over six hours, including the specific circumstances for not meeting the six hour hold limit.)
3. Were any **status offenders or non-offenders SECURELY detained** for any length of time in your facility? Yes No
If Yes, report the total number held securely and indicate the status offense, below: **REPORT DATA ON MIPs separately—see question #4.**
*Report only status offenders who were **securely detained related solely to a status offense** (e.g., runaway, truant, at-risk youth, curfew violator, etc.)—juveniles being held pursuant to a criminal-type offense and a status offense should be counted as an accused juvenile delinquent offender and reported in #2, above. Youth held **pursuant** to a warrant related solely to a status offense, such as a youth found in contempt of court related to a Truancy or At-Risk Youth order, remain status offenders and if held securely should also be reported below.*
 - _____ a. Number of status offenders **securely detained**; please also report type of status offense(s) (e.g., runaway, truant, curfew violator):

 - _____ b. Number of status offenders **securely detained for contempt of court** or FTA related to a status offense (such as a youth found in contempt of court related to a Truancy or At-Risk Youth (ARY) order); please report specific type of status offense(s): _____
 - _____ c. Number of non-offenders **securely detained** (defined as a juvenile who is subject to the jurisdiction of the juvenile court, under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile). Please complete a separate form and report circumstances on why a non-offender was held in your facility.

Note: Please complete a separate form (OJJ data collection form) for any status offender or non-offender who was securely detained within your department or jail (with no other criminal-type offense or charges), **including the specific circumstances on why these youth were securely detained, which are violations of the federal JJDP Act. Please fax or email to the OJJ, and do not include confidential information regarding individual youth detained** – this form has been revised, and can be accessed via the WA-PCJJ website at <http://www.dshs.wa.gov/ojj/lawenforcement.shtml>.

4. Were any juveniles securely detained in your facility for **MIP or MIC**, or for a probation violation related solely to a MIP/MIC offense? Yes No **If Yes, report the total number of youth (under age 18) securely detained for minor in possession of alcohol:** _____
5. Were any **sentenced*** or **civil-type** juvenile offenders securely detained in your facility? Yes No
- _____ How many were serving a **sentence** for a **criminal offense** (other than boating, traffic, fish or game)?
- _____ How many were **accused** of a **non-criminal traffic, boating, fish or game** offense?
- _____ How many were serving a **sentence** for a **non-criminal traffic, boating, fish or game** offense?

*Probation/parole violators or failures to appear for a criminal offense should be counted as accused, per question #2.

Note: Adjudicated delinquents cannot be held for any length of time in jails, holding facilities or lockups as a disposition; also, civil-type juvenile offenders (juveniles who have been charged or adjudicated for an offense that is civil in nature, such as non-criminal traffic, fish and game violations) cannot be securely detained for any length of time in jails, holding facilities or lockups.

6. Were any juveniles securely detained for possession of a handgun (for firearm possession charges only)? Yes No **If Yes, total number:** _____
7. **Sight and sound separation** does occur for juveniles who are securely detained in our facility which also confines adult offenders (as per the definition below*). Yes No
(If No, please describe: _____)
- * Accused or adjudicated delinquent juvenile offenders, status offenders and non offenders cannot have contact with adult inmates, including inmate trustees—contact is defined to include any physical or sustained sight or sound contact. Sight contact is defined as clear visual contact between adult inmates and juveniles within close proximity to each other; sound contact is defined as direct oral communication between adult inmates and juvenile offenders.*
8. Are there any **Scared Straight/Prison Preview** programs being implemented within your facility or by your agency? These programs typically bring juveniles into jails or correctional facilities and into contact with the adult inmates being held there for the purpose of “scaring” them out of their delinquent behaviors. Yes No
(If Yes, please describe: _____)
- Note: Some types of Scared Straight or “Shock Incarceration” programs may violate separation requirements—please contact the Office of Juvenile Justice if you have questions or for additional information.*
9. Have there been **any changes in policies or procedures** regarding juveniles in your agency/facility, or are any changes anticipated? Yes No (If Yes, please describe: _____)
10. Have there been any structural **changes in the building/facility**, or are any changes anticipated? (e.g., remodel/expansion, new building, etc.) Yes No (If Yes, please describe: _____)
11. Are juveniles (under age 18) who have been **transferred or waived to adult criminal court jurisdiction** (juvenile declines to adult court) detained in your facility? Yes No If Yes, where are they housed in the facility? _____
Are they housed separately (in a cell that does not contain adult offenders)? Yes No (In 2008 the former state advisory group (the GJJAC) distributed a model policy/practice for consideration regarding the housing of juveniles who have been transferred to adult court jurisdiction and are held locally, pre-sentencing— please contact the Office of Juvenile Justice to request a copy if you have not received one to date.)

THANK YOU VERY MUCH FOR YOUR ASSISTANCE AND COOPERATION.

We request your assistance in ensuring that original data logs verifying the holding of juveniles are maintained at your agency/facility for a period of no less than 3 years. The original data source must be easily accessible and available onsite for OJJ and/or federal compliance monitors to review.

The information provided above is true and accurate to the best of my knowledge.

Signature (If completed and submitted electronically, check this box as certificate of signature)

Print Name Title

() - - () - - / /
Phone Number Fax Number E-mail Date

Please fax, mail or email the completed survey form by February 15, 2012 to the Office of Juvenile Justice:

PO Box 45828, Olympia, WA 98504-5828
Ph 360-902-7526 Fax 360-902-7527
Email: dshsojssurvey@dshs.wa.gov

APPENDIX F: DATA COLLECTION FORM

Office of Juvenile Justice JUVENILES IN JAIL and LAW ENFORCEMENT FACILITIES (Data Collection Form)

NAME OF FACILITY: _____

6 Hour Holding 72 Hour Holding 30 Day Holding Detention Correctional

AGE: _____

MALE

WHITE

UNSENTENCED

FEMALE

BLACK

SENTENCED

AMERICAN INDIAN

ASIAN & PACIFIC IS.

HISPANIC

OTHER

UNKNOWN/NOT REPORTED

DATE OF BIRTH: __/__/____

DATE BOOKED IN: __/__/____

HOUR BOOKED IN: _____:_____
(use 24-hour clock time)

DATE BOOKED OUT: __/__/____

HOUR BOOKED OUT: _____:_____

TOTAL HOURS HELD: _____

REASON HELD:

Criminal Offense (Specify) _____

Status Offense (**Specify status offense**—e.g., runaway, truant, etc.) _____
Includes youth found in violation of a court order related to a status offense (such as a warrant for FTA or contempt on an At-Risk Youth (ARY) or Truancy order)

Non-Criminal Traffic (Specify) _____

Non-Criminal Boating or Fish/Game (Specify) _____

Other (Specify) _____

ARRESTED BY: _____

RELEASED TO: _____

COMMENTS: _____

DATA COLLECTED BY: _____ DATE: __/__/____

Note: If data collection forms are being submitted to the Office of Juvenile Justice providing information on individual juveniles detained, please **do not include confidential information** (e.g., name of youth); forms can be faxed to the OJJ at **360-902-7527**.

APPENDIX G: SAMPLE CERTIFICATION LETTERS

SAMPLE FOR SECURE FACILITIES:

ATTN: Peggy Slavick
Office of Juvenile Justice, DSHS
PO Box 45828
Olympia, WA 98504-5828

RE: Holding of Juveniles, Facility Secure

Dear Ms. Slavick:

The _____ Police Department/Sheriff's Office does have an area in which officers can securely detain adults or juveniles. There is a lockable interview room, a holding cell, and/or a cuff bar/ring or bench.

However, it is our policy not to secure juveniles. While in our custody the arresting officer remains with the juvenile, in a non-secure location within our facility.

We release juveniles in our custody to parents or other responsible adults, or take them to juvenile detention. As a result, we certify that we choose not to secure juveniles in our custody.

Signed by: Chief or Sheriff

SAMPLE FOR NON-SECURE FACILITIES

Attn: Peggy Slavick
Office of Juvenile Justice, DSHS
PO Box 45828
Olympia, WA 98504-5828

Re: Holding of Juveniles, Facility Not Secure

Dear Ms. Slavick:

The _____ Police Department/Sheriff's Office does not have an area in which officers can securely detain adults or juveniles. There is no lockable interview room, no holding cell(s), and no cuff bar, ring or bench.

It is our policy to release juveniles in our custody to parents or other responsible adults or to take them to juvenile detention. As a result, we certify that we cannot securely detain juveniles either accused of a delinquent offense or of a status offense.

Signed by: Chief or Sheriff

APPENDIX H: SAMPLE POLICIES AND PROCEDURES

General

1. Policies and procedures relating to juveniles held in a secure location in an adult jail, lockup or other law enforcement facility shall be documented in writing.
2. Policies and procedures relating to juveniles held in such a secure location shall be reviewed annually and updated as required for consistency with state and federal law and good correctional practice.
3. All staff shall receive initial and on-going training in policies and procedures relating to juveniles held in such a secure location.

Sentenced (Adjudicated) Offenders

4. Any secure holding of a adjudicated delinquent that is not related to a court appearance is a violation of the JJDP Act.
5. Juveniles convicted of a delinquent offense and sentenced to a term of confinement may not serve any portion of that time in a secure location other than a juvenile detention facility or a facility operated by the Juvenile Rehabilitation Administration.
6. Juveniles serving a term of probation for whom there is a warrant issued by the court requiring their appearance on that prior matter are classified as alleged delinquent offenders. They are not classified as sentenced or as in violation of a court order under the provisions of the JJDP Act.
7. Adjudicated delinquent offenders, such as the juvenile returned from detention for an appearance for failure to comply with the terms of probation, may be securely held for up to 6 hours before a court appearance and 6 hours after.

Boat, Game and Traffic Offenders

8. Civil-type offenders, such as non-criminal traffic violations and non-criminal fish and game violations may not be securely held in a jail or a local law enforcement facility.

Non-offenders

9. A non-offender is subject to the jurisdiction of the juvenile court, usually under abuse, dependency or neglect statutes, and not for legally prohibited conduct of the juvenile.
10. Non-offenders may not be securely held in a jail or a local law enforcement facility.

Status Offenders

11. Status offenders (juveniles charged with offenses that would not be crimes if committed by adults) may not be held in a locked room or within the security perimeter or otherwise restrained by any physical device.
12. Status offenses include truancy, violations of curfew, and runaway.
13. Violations of the Youth Handgun Safety Act or a similar state law (see RCW 9.41.042 and RCW 9.41.040(2)(a)(iii)) *are not status offenses* under the provisions of the JJDP Act (these juveniles can be placed in secure detention or secure correctional facilities without violating the DSO requirement). If held securely, juveniles accused of possession of a handgun must be reported as accused of a criminal offense with the specific offense so recorded.
14. Status offenders brought to the jail or a local law enforcement facility shall be promptly transferred to the appropriate juvenile authority or released.

Violators of Court Orders

16. Violators of court orders refer to status offenders who may be or are in contempt of their court order; for example, an At-Risk Youth or Truant youth for whom the judge has issued a warrant for failure to comply.
17. Since status offenders remain status offenders even when a warrant has been issued, juveniles brought in on status offense court orders may not be securely held in a jail or a law enforcement facility.

Disciplinary Transfers

18. A juvenile may not be transferred from a juvenile detention center to a jail or lockup for disciplinary reasons.

Delinquent Offenders

19. Juveniles accused of a delinquent offense may be securely held in a jail or law enforcement facility subject to the limitations noted below.
19. Juveniles accused of a delinquent offense and a status offense may be securely held subject to the limitations noted below.
20. Juveniles accused of possession of a firearm may be securely held subject to the limitations noted below under an exception to the JJDP Act.
21. Juveniles accused of a delinquent offense for whom a failure to appear warrant has been issued may be securely held subject to the limitations noted below.
22. Juveniles adjudicated for a delinquent offense for whom a warrant has been issued may be securely held subject to the limitations noted below.

Temporary Custody of Juveniles Accused of a Criminal Offense When First Taken into Custody (Non-Removal Exception Counties)

23. Juveniles accused of a criminal offense may be held in temporary custody only for the purposes of fingerprinting, photographing, and awaiting transportation to an appropriate facility.
24. Juveniles held in temporary custody must be separated from adult inmates so that no regular sight or sound contact is possible.
25. Temporary custody may not exceed six hours.
26. The six hours cannot be intermittent. The clock starts running once a youth has been placed in secure custody. For example, an accused juvenile delinquent cannot be removed from a holding cell for the purpose of an interview, returned, taken out again for another interview, with all the out-of-cell time subtracted from the time between placement in a secure location and transfer to a juvenile facility.
27. Temporary holds in violation of the six hour rule shall be approved by the supervising officer and the reason for the violation documented in writing. (Reasons may include transportation difficulties, an unfinished investigation, etc. Approval does not mean no violation occurred but provides the agency with information needed to ensure that no future violations occur.)

OR Temporary Custody of Juvenile Offenders When First Taken into Custody (Removal Exception Counties)

28. Juvenile offenders may be held in temporary custody only for the purposes of identification, processing, arranging for release to parents, or awaiting transportation to a juvenile facility.
29. Juveniles held in temporary custody must be separated from adult inmates so that no regular

sight or sound contact is possible.

30. Temporary custody may not exceed 24 hours (excluding weekends and holidays) prior to an initial court appearance.
31. Temporary holds in violation of the 24 hour rule shall be approved by the supervising officer and the reason for the violation documented in writing.
32. Acceptable reasons include transportation difficulties, severe weather conditions. When given, holds may extend up to an additional 48 hours.
33. Other reasons, such as a continuing investigation or awaiting an initial hearing, do not constitute valid reasons to delay transportation to juvenile detention.

Temporary Custody of Juvenile Offenders When Returned for Hearing

34. Juvenile offenders may be held in temporary custody awaiting a court hearing.
35. Temporary custody as used here refers to custody in a jail or police holding area. It does not refer to custody in a holding room adjacent to the courtroom.
36. Temporary custody may not exceed 6 hours before and/or after the hearing. The 6-hour time periods cannot be combined to extend the time frame, e.g. 4 hours before and 7 hours after is a violation.
37. Juveniles held in temporary custody must be separated from adult inmates so that no regular sight or sound contact is possible.

Custody of Juveniles Prosecuted as Adults

38. Juveniles may be held beyond the time constraints for temporary custody only after formal charges have been filed and the child is remanded to adult court. When custody is transferred to the jail, such juveniles should be accompanied by a court order.
39. The juvenile's activities shall be monitored at all times. Such supervision and monitoring shall include both physical observation and documented checks at least four times an hour. State law (RCW 72.01.415) requires that "an offender under the age of 18 who is convicted in adult criminal court of a crime and who is committed for a term of confinement in a jail as defined in RCW 70.48.020 must be housed in a jail cell that does not contain adult offenders, until the offender reaches the age of 18."
40. Juveniles under the age of 18 who do not have a high school diploma shall receive full-time education (or its equivalent) while held in jail.
41. The former State Advisory Group drafted a model policy/practice for consideration regarding the housing of remanded juveniles who are held locally, pre-sentencing/pre-trial.

Record Keeping

42. Records shall be kept for each juvenile brought into the jail (including juveniles brought in solely for the purpose of fingerprinting and photographing) or detained in a secure area of a law enforcement facility.
43. Such records shall include the juvenile's name, date of birth, sex, race, date and time brought into the jail, date and time released from the jail, type of release, person or authority to whom the child is released, total hours spent in the facility, offense/charge(s), and whether or not the juvenile is accused or adjudicated.
44. Juveniles securely held for a status offense, to serve a sentence or for a traffic, boating or game offense, or for longer than six hours for a delinquent offense shall be reported to the State of Washington Office of Juvenile Justice.
45. Agencies must submit semi-annual (6-month) reports of their secure holding areas, of the number and types of juveniles held, and of the specifics for juveniles held in violation of federal requirements.

APPENDIX I: VALID COURT ORDER CHECKLIST

For the purpose of determining whether a valid court order exception can be claimed, all of the following conditions must be present (also see attached flowchart and checkpoints):

If a juvenile is taken into custody for violating a valid court order issued for committing a status offense—i.e., a warrant is issued, and the youth is transported directly to a juvenile detention facility), the following conditions must be met:

- Was an appropriate public agency promptly notified that such juvenile is held in custody for violating the order?
- Was the juvenile interviewed in person, by an appropriate public agency representative, within 24 hours following the juvenile's placement in detention, excluding weekends and holidays, to determine the reasons for holding a violation hearing?
- Did the public agency representative submit an assessment to court, prior to the reasonable cause hearing, regarding the immediate needs of the juvenile and the most appropriate placement needs of the juvenile pending disposition of the violation?
- Was the reasonable cause hearing held within 48 hours of the juvenile's placement in the detention facility, excluding weekends and holidays?
- Was there a judicial determination that there was reasonable cause to believe the juvenile violated such order?

If all the above conditions are present, and the juvenile status offender is found in a violation hearing to have violated a valid court order, the juvenile may be held in a secure juvenile detention facility, but not an adult jail or lockup, for a term set by the judge. However, a non-offender, such as a dependent or neglected child, cannot be placed in a secure detention or correctional facility for violating a valid court order.

The following information was requested from juvenile courts with detention facilities in 2007-2008:

1. **Valid Court Order Exception** – A valid court order means a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to such order, and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution. If a juvenile is taken into custody for violating a valid court order issued for committing a status offense, certain conditions must be met to allow placement in secure detention.

Please verify that the following conditions are met for youth found in contempt of court related to a truancy, ARY, CHINS, or dependency order/proceeding:

- A. Is an appropriate public agency promptly notified that when a juvenile is held in custody for violating an order? Yes No

If Yes:

Which public agency? (e.g., juvenile court probation office, detention staff, prosecutors' office, etc.) _____

Is there documentation that a public agency has been notified? _____

Where is this documented? _____

- B. Is the youth interviewed in person within 24 hours of the juvenile's placement in secure detention, excluding weekends and holidays? (by an appropriate public agency representative, e.g., juvenile court probation officer, detention staff, prosecutor, etc.)

Yes No

If Yes:

Which public agency representative? _____

Where is this documented? _____

- C. Does the public agency representative that conducts the interview submit an assessment to the court, prior to the reasonable cause hearing (or detention review hearing), regarding the immediate needs of the juvenile and the most appropriate placement needs of the juvenile pending disposition of the violation?

Yes No

If Yes:

Where is the assessment record maintained? _____

- D. Is the hearing held within 48 hours of the juvenile's placement in secure detention, excluding weekends and holidays? Yes No

If Yes:

Where is this documented? _____

- E. Where are the records maintained regarding the judicial determination that there was reasonable cause to believe the juvenile violated the order? _____

During 2007, OJJ staff worked with several juvenile court administrators (JCAs) regarding documentation and verification of the VCO process; information was shared by these JCAs at juvenile court administrator association meetings. Accordingly, the OJJ has received written signed statements summarizing the VCO process and location of the documentation for each step, along with applicable court order forms, from a number of juvenile courts to date. This information will continue to be gathered from all juvenile courts statewide, and verified at onsite compliance visits, as applicable.

Valid Court Order Process and Checkpoints

August 2008

Juvenile commits a status offense. A petition is filed in court alleging the status offense has been committed.



* State law must allow for the use of the Valid Court Order. You will be asked to attach a copy of your State law to your OJJDP Compliance Monitoring report if you claim any VCO exceptions.



* The juvenile is brought before the court and made subject to the order;
* A juvenile court judge must hear the case;
* Before the order is issued the juvenile must have received their due process rights as guaranteed by the US Constitution (see the handouts from the VCO session for a list of those rights).



* The juvenile violates the Valid Court Order (by doing something he/she was specifically ordered not to do)



If a warrant is issued (based on an allegation that the juvenile violated the Valid Court Order AND the juvenile is taken into custody – they may not be held securely at a jail or lockup. They may be held at a juvenile detention or correctional facility. If they are, verify the items in the next box.



* An appropriate public agency must be promptly notified that the juvenile is in custody;
* Not later than 24 hours during which the juvenile is held an authorized representative of the agency must interview, in person, the juvenile;
* Not later than 48 hours during which the juvenile is held:
• The representative must submit an assessment to the court that issued the order regarding the immediate needs of the juvenile (a sample assessment report is on the OJJDP website); and
• The court must conduct a hearing to determine whether there is “reasonable cause” that the juvenile violated the order and the court shall determine the appropriate placement of the juvenile pending the “disposition” hearing.
(In the event the court orders the juvenile detained pending the sentencing hearing it should be held as soon as possible although no time frames are given)

If the juvenile is not placed in a juvenile detention center prior to their sentencing hearing then you only need to “verify” that the above *’s were met in the case.

OJJDP requires that at least 10% of all reported VCOs are verified annually. If violations are found in that 10% sample, you must project the violations for the

Source of Flowchart: Susan Davis, presented at OJJDP Fall 2008 conference.