

Compliance With the Federal Act

Adult Jails, Lockups, and Holding Facilities

The state must comply with the four core protections of the JJDP Act:

- Eliminating or preventing the placement of non-offending youth and status offenders, such as runaways or truants, in secure facilities. **(Deinstitutionalization of Status Offenders, or DSO)**
- Ensuring complete sight and sound separation of juveniles from adult offenders in secure facilities (such as adult jails and lockups), when they are held. **(Separation)**
- Eliminating the confinement of juveniles in adult jails and lockups. **(Jail Removal)**
- 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. **(Disproportionate Minority Contact, or DMC)**

The federal JJDP Act requires participating states to provide for an adequate system of monitoring, including the following types of facilities: adult jails and lockups, local juvenile detention centers, state juvenile training schools (institutions), and colocated facilities.

Federal (OJJDP) regulations provide a six-hour hold exception that permits a juvenile accused of committing a criminal-type offense to be held in an adult jail or lockup for up to six hours for the purposes of identification, processing, or to arrange for release to parents or transfer to a juvenile detention facility. Any holding is to be limited to the absolute minimum time necessary to complete these purposes, not to exceed six hours. Also, an accused or adjudicated delinquent juvenile could be detained for up to six hours before a court appearance, and up to an additional six hours after a court appearance. However, any hold of an adjudicated delinquent juvenile that is not related to a court appearance is a violation of the jail removal requirement. State law (RCW 13.04.116) is consistent with federal requirements regarding jail removal. Also, juveniles must be completely separate from sight or sound contact with adult prisoners. Washington State has historically met federal jail removal requirements.

Since 2003, data have been collected from law enforcement agencies through a semi-annual self-reporting process (data is reported every six months); in prior years, an annual survey was distributed. Verification is based on specific arrest data provided by the agencies and regular (once every 3 years) on-site visits/inspections conducted by Office of Juvenile Justice compliance monitoring staff. During SFY 2009, 87 law enforcement departments (with the ability to securely confine) and jails received onsite compliance visits, and an additional 16 law enforcement facilities were inspected that were determined to be non-secure. During calendar year 2008, 104 juveniles were held in adult jails, holding facilities

Adult Jails, Lockups, and Holding Facilities (continued)

or lockups in Washington State in violation of the federal JJDP Act, a slight decrease in violations from CY 2007. The majority (80 percent) were violations of both the jail removal and DSO requirements of the federal Act, as status offenders¹ were held in secure custody status in the jail, holding facility or lockup.² Approximately 93 percent of these violations were in city (including precincts/substations) lockups or holding facilities, and over one-half of status offenders securely held were MIP/MICs—Minor in Possession or Consumption of alcohol (either held on an original arrest or returned on a court order). Underage alcohol offenses are classified as status offenses per federal definitions (for youth under age 18), even though state law considers them a delinquent offense. The total jail removal violations were within the numerical deminimus rate allowable for Washington State under federal JJDP Act regulations.

During 2003, a statewide inventory of law enforcement agencies was conducted by the Office of Juvenile Justice; the state's contracted compliance monitor at that time reviewed the juvenile detention practices of almost 300 law enforcement/correctional agencies. As a result, in the past several years there has been a significant increase in the number of reporting agencies from previous years. The shift of correctional costs to local municipalities and the consequential reopening of old secure areas, and the construction of new facilities with secure areas, has significantly increased the number of facilities statewide. Hence, the total number of law enforcement facilities that securely hold juveniles temporarily has also significantly increased.

Currently (May 2010) there are a total of 210 facilities statewide with the ability to securely detain (meeting the definition of an adult jail, lockup, or holding facility); approximately two-thirds (66.6 percent) of these facilities may sometimes hold juveniles temporarily, as well as adults. Approximately one-third (33 percent) of these agencies have policies in place not to securely detain non-remanded juveniles for any length of time within their department/facility. The OJJ compliance monitors continue to provide technical assistance to law enforcement agencies statewide.

¹ Status offenders (e.g., truants, runaways, curfew violators, underage alcohol offenses) and non-offenders cannot be securely detained in adult facilities for any length of time; Minors in Possession of alcohol, under the age of 18, are considered status offenders according to federal law, despite being delinquent offenders under Washington State law.

² Lockups have no secure perimeter, and are not staffed (but the juvenile can be held securely, such as a locked interview room, cells along a hallway, or cuff bar, ring or bench); holding facilities are defined as facilities with a secure perimeter (commonly have several holding cells), but are not staffed (which meets the federal definition for a lockup) and typically provide temporary, short-term holding; and Jails, which have a secure perimeter and are staffed.

Juvenile Detention Centers

Each year, the Office of Juvenile Justice (staff to the State Advisory Group) works with the Juvenile Court Administrators of all juvenile detention centers statewide to collect data on juveniles detained. There are 22 juvenile detention centers statewide—21 that are county-operated, and one regional center maintained by a consortium of counties.

In 2009, data were collected from several sources, including a self-reported survey from the juvenile courts, through detention data systems maintained by individual facilities, and through the JCS system (the juvenile & corrections information system, which was implemented in the state during 2005-2006, and is managed by the Administrative Office of the Courts—AOC). Onsite monitoring/verification was conducted by GJJAC/OJJ staff (efforts are made to monitor all juvenile detention facilities once every three years—approximately one-third of the facilities receive an onsite visit annually).

There were approximately 3,750 admissions³ of status offenders to juvenile detention facilities in calendar year 2008 for violations of a court order/proceeding related to a status offense. The majority (approximately 93 percent) were detained for contempt of court or FTA related to a Truancy or At-Risk Youth order/proceeding. As federal law provides an exception for status offenders who violate a Valid Court Order (VCO),⁴ these youth were not securely detained in violation of federal regulations (per the VCO exception/allowance).

Update on the VCO Exception: Proposed changes that have been consistently included (from 2008 through 2010) for the reauthorization of the JJDP Act would provide a phase-out of the Valid Court Order exception over a 3-year time period -- states could no longer claim this allowance and hold adjudicated status offenders in secure juvenile facilities. If included in the reauthorization of the JJDP Act, this change would have a significant impact on the juvenile justice system in our state, which has historically utilized this exception, and would require changes to state laws.

³ Admissions with a detention stay of over 4 hours in duration.

⁴ The VCO Exception provides that adjudicated status offenders found to have violated a valid court order may be securely detained in a juvenile detention or correctional facility if they meet the valid court order process.

Secure Crisis Residential Centers

Data for youth admitted to Secure Crisis Residential Centers (S-CRCs) are collected through a self-reporting process, and through the management information system operated by the Children's Administration, DSHS. On-site verification is conducted by GJJAC staff. In February 2009, the total number of S-CRC beds was reduced from 60 beds to 44 beds within eight facilities as a result of the state's budget shortfall and reductions to the 2009 operating budget; currently (May 2010), there are 40 contracted beds total within six facilities (two are located within juvenile detention facilities). There were approximately 1,900 admissions/placements of youth in the operating S-CRCs in SFY 2009 (July 08 through June 09),⁵ a decline from SFY 2008 when admissions totaled about 2,500.

In 2001, it was determined through GJJAC compliance monitors' findings and GJJAC staff analyses, that five of the nine operating facilities (those operated by private non-profit agencies) did not meet the federal definition for "secure facility" as described in federal guidelines. (However, these five facilities are physically secure as required under Washington State statutes, and by their licensure as Secure Crisis Residential Centers.)

There were 954 admissions of youth to the four S-CRCs located within specific designated areas of juvenile detention centers in calendar year 2008 (approximately 61 percent were girls; 43 percent were minority youth; and the average age continued to be 15 years). There were 386 violations of the removal of status offenders and non-offenders requirement (DSO) of the federal JJDP Act for these four facilities total in 2008, a slight (2.5%) decrease from the number of violations in 2007. These violations do not include youth placed in these four S-CRCs who were released within 24 hours, excluding weekends and holidays, or who received a judicial court review within 24 hours, excluding weekends and holidays,⁶ and who were released within an additional 24 hours after the review, excluding weekends and holidays. The average length of stay for youth/admissions to the four facilities (from admission to release from the facility) ranged from approximately 1-1/2 to 2-1/2 days during 2008.

Compliance with the DSO Requirement of the Federal JJDP Act

Since October 2002, all four courts with operating Secure CRCs within their detention facilities provided a judicial court review within 24 hours, excluding weekends and holidays, for youth placed in their respective S-CRC (consistent with federal requirements). Additionally, one court (Snohomish County) provided an additional court hearing at 48 hours of the youth's placement.

⁵ Data obtained from the DSHS Research & Data Analysis (RDA), Executive Management Information System (EMIS) Report, "Crisis Residential Center Services - Children Served," 4/11/08 report.

⁶ Federal regulations allow a facility to hold an accused status offender in a secure juvenile 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 an initial court appearance.

⁷ The 2002 reauthorization of the JJDP Act allowed all states to receive the full award amount for FFY 2004. For FFY 05, Washington was notified that the state's Formula Grant allocation was reduced by 20 percent as the state was again found out of compliance with the DSO requirement, and must spend 50 percent of its remaining funds on efforts to achieve compliance (per the JJDP Act of 2002).

Compliance with the DSO Requirement of the Federal JJDP Act (continued)

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With the reduction in beds and the closure of two detention-based secure CRCs during the first six months of 2009, it is anticipated the number of DSO violations will be significantly reduced for Washington in SFY 2010.

Washington State was found to be out of compliance with the DSO requirement of the federal JJDP Act in the spring of 2000, as the number of youth held in violation of the DSO requirement in S-CRCs exceeded the de minimus rate allowable for Washington State under federal JJDP regulations for DSO.

As a result of being out of compliance, the federal OJJDP has reduced the federal Formula Grant Program funding available to Washington State since 2000 (by 25 percent each federal fiscal year from 2000 through 2003). The 2002 amendment of the JJDP Act allowed Washington State full funding in FFY 04. Starting in FFY 05, the Formula Grant funding was again reduced, but by 20 percent per the reauthorized JJDP Act provisions (Section 223(c)(3)). The state has been cumulatively penalized over \$2.5 million dollars in federal funding from FFY 2000 through 2009. The Act also provides that a state which is out of compliance with one or more of the core requirements spend 50 percent of its remaining funds on efforts to achieve compliance with the requirements with which it has been found out of compliance.⁷

The DSO program area was again selected as the first priority program area by Washington's State Advisory Group (SAG) for the 2009-11 three-year comprehensive juvenile justice plan. The SAG reaffirmed this priority at their October 2008 retreat, held in Seattle.

The primary programmatic strategy for bringing Washington State into compliance with the DSO requirement of the Act includes continuing to address DSO through: requesting technical assistance from OJJDP, which may include providing facilitation with local community partners (and the Children's Administration) in the assessment and development of non-secure (regional or staff-secure) community alternatives, based upon local community needs and services for this population; increasing community stakeholder collaborations and partnerships, including coordination through local juvenile justice planning groups (CJJs); reviewing interventions and promising programs for status offenders, and participating in trainings and workshops which focus on DSO promising strategies; and continuing the commitment to the AECF Juvenile Detention Alternatives Initiative (JDAI).⁸

The JDAI is a proven detention and system reform model of eight core strategies that enable Juvenile Courts to safely remove certain youth populations from secure detention. There are currently (May 2010) seven JDAI sites in the state, located in Benton-Franklin, King, Mason, Pierce, Skagit, Spokane, and Whatcom counties. Approximately 55 percent of the

⁸ Regional Program Development Units, were renamed "Community Juvenile Justice Coordination" (CJJ) grants as of July 1, 2006.

**Compliance
with the DSO
Requirement of the
Federal JJDP Act**
(continued)

Washington's SAG supports JDAI replication -- it has been proven to reduce disproportionate minority confinement/contact (DMC) and is successful in reducing the number of non-offenders and status offenders held in secure detention (DSO).

state's juvenile population live within these counties.

In Washington, JDAI can provide a template to eliminate the inappropriate or unnecessary use of secure detention, particularly for status offenders. Youth who do not pose a threat to community safety are referred to other community resources, outside of a detention facility, while their charge is processed. The purpose of the initiative is to review court procedures and to use a data-driven process to see if certain juveniles might be better served by the use of alternatives, rather than detention. The goal of JDAI is to provide the right service to the right juvenile at the right time, and to hold (in detention) only those juveniles that must be held in locked detention to protect the community. Washington's SAG supports JDAI replication -- it has been proven to reduce disproportionate minority confinement/contact (DMC) and is successful in reducing the number of non-offenders and status offenders held in secure detention (DSO).

In 2008, the SAG awarded federal Formula Grants funding to six new projects in the DSO priority area; four of these projects began in July 2008, located in King, Pierce, Spokane and Thurston counties, and two additional projects started in October 2008 (located in Benton-Franklin and Skagit counties). These projects provide targeted services or prevention/intervention programming addressing truancy and/or at-risk youth.

With the reorganization and repositioning of Washington State's SAG in SFY 2011, it is anticipated the new Council will assume a heightened pro-active role in addressing the state's compliance with DSO, and will also continue to cultivate and strengthen relationships with key juvenile justice stakeholders -- including legislators, juvenile court administrators and community partners, and through collaborations with the Center for Children and Youth Justice, the agency implementing the MacArthur Foundation **Models for Change** Initiative in Washington.
