

Compliance With the Federal Act

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.

Adult Jails, Lockups, and Holding 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 and separation 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 2010, 62 law enforcement departments (with the ability to securely detain) and jails received onsite compliance visits, and an additional 19 law enforcement facilities were inspected that were determined to be non-secure.

During calendar year 2009, 66 juveniles were held in adult jails, holding facilities or lockups in Washington State in violation of the federal JJDP Act, a 36.5 percent decrease from CY 2008. The majority (88 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 83 percent of

¹ Status offenders (e.g., truants, runaways, curfew violators) and non-offenders cannot be securely detained in adult facilities for any length of time.

² Lockups do not have a secure perimeter, and are not staffed (but the juvenile can be held securely, such as a locked interview room, cell(s) 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 also meets the federal definition for a lockup) and typically provide temporary, short-term holding; and Jails, which have a secure perimeter and are staffed.

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. The total jail removal violations were within the numerical deminimus rate allowable for Washington State under federal JJDP Act regulations.

Update on classification of MIP offenses:

Underage alcohol offenses were historically classified as status offenses per federal definitions (for youth under age 18), even though many states (including Washington) have considered them a delinquent offense under state law.

In March 2011, the states were notified by the federal OJJDP Acting Administrator that **MIPs** (juveniles who have been accused of or adjudicated for alcohol violations that would not be violations of the law if committed by an adult over age 21) would no longer need to be reported as violations of the DSO core requirement, with regard to future compliance data submitted to the federal OJJDP (i.e., OJJDP now considers youth charged with MIP offenses to be accused delinquent offenders).

However, OJJDP maintains that as a matter of policy MIPs should never be securely detained, and that OJJDP has always understood “the intent of the legislators in passing the JJDP Act was to ensure that juveniles accused of or adjudicated for such offenses are never securely detained in adult and juvenile facilities.”

Further, that OJJDP will continue to work with Congressional staff to amend the JJDP Act to specifically include MIP offenses as status offenses subject to the DSO core requirement.

Number of Adult Jails & Lockups: Currently (June 2011) there are a total of 217 facilities statewide with the ability to securely detain (meeting the definition of an adult jail, lockup, or holding facility); approximately two-thirds (68 percent) of these facilities may sometimes hold juveniles temporarily per the 6-hour hold allowance, as well as adults. The remaining one-third (32 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.

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 2010, 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 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 2,000 admissions³ of status offenders to juvenile detention facilities in calendar year 2009 for violations of a court order/proceeding related to a status offense. The majority (80%) were detained for contempt of court or FTA related to an At-Risk Youth or Truancy order/proceeding; approximately 43% were female youth, and 57% were male youth. This was a significant reduction (45%) from CY 2008, when there were approximately 3,750 admissions of status offenders to juvenile detention facilities. As federal law currently continues to provide 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).

The federal Valid Court Order exception

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

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 per the JJDP Act, Sect. 223 (A)(11) (A) (ii), and 223 (A)(23)(A-C).

Update on the VCO Exception: The JJDP Act Reauthorization proposed changes have included (from 2008 through 2011) provisions that would phase-out the Valid Court Order exception over a 3-year time period -- states would no longer be able to 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 and practice.

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 OJJ 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; as of November 2010, there were 37 contracted beds total within six facilities (two are located within secure juvenile detention facilities with a total of 7 beds). There were approximately 1,600 admissions/placements⁵ of youth in the operating Secure CRCs in SFY 2010 (July 09 through June 2010), a decline from SFY 2009 when admissions totaled over 1,900.

In 2001, it was determined through the contracted compliance monitors' findings and OJJ 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 were physically secure as required under Washington State statutes, and by their licensure as Secure Crisis Residential Centers.)

Data for July - December 2009 was annualized with regard to admissions of youth to the two S-CRCs located within specific designated areas of juvenile detention centers; there were just over 80 admissions, and 30 violations total for these two facilities. 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.

With the reduction in beds and the closure of two of the four detention-based secure CRCs during the first six months of 2009, the number of total DSO violations for Washington State was a significant decrease from previous years, and for the first time in ten years the state met the de minimis criteria for demonstrating full compliance (i.e., the detention rate per 100,000 juveniles was under 5.8).

Hence, the state was notified by the federal OJJDP that the state was eligible to apply for the full Title II Formula Grants Program allocation to the state for FFY 2011. From 2000 through 2010, the state had been cumulatively penalized over \$2.7 million dollars in federal Formula Grant funding.

⁵ Data obtained from the DSHS Research & Data Analysis (RDA), Executive Management Information System (EMIS) Report, "Crisis Residential Center Services - Admissions," generated May 2011.

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).

Strategies to maintain compliance with DSO:

Continue commitment and expansion of the Juvenile Detention Alternatives Initiative (JDAI), in order to continue to reduce the number of status offenders held in juvenile detention facilities pursuant to the Valid Court Order exclusion, and to address DMC. These efforts will be maximized by the dedication of federal Formula grant dollars by the state advisory group to detention alternatives, with the goal of expanding to two additional sites in 2012, and through partnering state funds specifically allocated for the JDAI by the state legislature.

Continue to provide technical assistance to adult jails and lockups statewide regarding DSO and jail removal requirements (this includes resources for law enforcement), with the goal of continuing to decrease the number of status offenders held temporarily in these facilities.

Continue to cultivate and strengthen relationships with key juvenile justice stakeholders -- Washington's newly convened state advisory group, the Washington State Partnership Council on Juvenile Justice, is comprised of state, local, judicial and private/non-profit leaders who have extensive experience and knowledge in juvenile justice, and who are able to affect or influence system reform (including four members of the state legislature). The membership also includes youth representation to ensure the youth voice is included in the reform effort.

Continue to work with the MacArthur Foundation regarding DSO, in the Washington State "Models for Change" juvenile justice reform efforts. Washington's state advisory group continues to be actively involved in discussions with the MacArthur Foundation about juvenile justice needs and reform efforts. The MacArthur Foundation is funding several sites across the state to participate in their Models for Change reform initiative; a number of the JDAI sites were selected to participate as demonstration counties, and have received

grant funds as part of this effort. Models for Change is working to transform the juvenile justice system in Washington by focusing on the following three targeted issues: alternatives to formal processing and secure confinement, primarily focusing on status offenders/truant youth; reducing racial and ethnic disparities; and improving the way the system identifies and responds to youth with mental health needs.
