

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 collocated 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 and adult jails 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 a contracted principal compliance monitor and Office of Juvenile Justice compliance monitoring staff.

During SFY 2011, 65 law enforcement departments (with the ability to securely detain) and jails received onsite compliance visits, and an additional 10 law enforcement facilities were inspected that were determined to be non-secure.

During calendar year 2010, 36 juveniles were held in adult jails, holding facilities or lockups in Washington State in violation of the federal JJDP Act, a 45.5 percent decrease from CY 2009. The majority (89 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 adult jail, holding facility or lockup.² The majority of these violations occurred in city lockups (including precincts/substations), and over one-half of status offenders securely held were runaway youth securely detained for a short time awaiting transport or pickup by parents or guardians. The total jail removal violations were within the numerical de minimus rate allowable for Washington State under federal JJDP Act regulations.

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.

Note: There were also 21 MIPs/MICs securely detained in adult lockups during calendar year 2010; per the federal OJJDP's direction (see below), these youth were not counted as violations of DSO. In past years, approximately one-half of the status offender violations in jails and lockups for Washington State have been youth held pursuant to a Minor In Possession of Alcohol (MIPs).

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 2012) there are a total of 212 facilities statewide with the ability to securely detain (meeting the definition of an adult jail, lockup, or holding facility); over two-thirds (69 percent) of these facilities may sometimes hold juveniles temporarily per the 6-hour hold allowance, as well as adults. The remaining 31 percent of these facilities have policies in place not to securely detain non-remanded juveniles for any length of time within their department/facility. The OJJ staff and contracted compliance monitor 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 2011, 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 2,760 admissions³ of status offenders to local juvenile detention facilities in calendar year 2010 for violations of a court order/proceeding related to a status offense. The majority (90%) were detained for contempt of court or FTA related to an At-Risk Youth or Truancy order/proceeding; approximately 44% were female youth, and 56% were male youth. This was an increase in admissions from CY 2009, when there were approximately 2,050 admissions of status offenders to juvenile detention facilities (this number was impacted by the 2009 State Court of Appeals opinion--*Bellevue School District v. E.S.*). 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 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

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

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

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. In September 2012, there are currently 33 contracted beds total within five facilities (two are located within secure juvenile detention facilities with a total of 8 beds). Data for youth admitted to Secure Crisis Residential Centers (S-CRCs) located within juvenile detention facilities are collected through a self-reporting process. On-site verification is conducted by OJJ staff.

There were approximately 1,600 admissions/placements⁵ of youth total within 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 facilities were physically secure

as required under Washington State statutes, and by their licensure as Secure Crisis Residential Centers.)

For calendar year 2010, there were just over 90 admissions of youth to the two S-CRCs located within specific designated areas of juvenile detention centers, 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) and was found in compliance with DSO by the federal OJJDP.

The state was also found to be in compliance with the DSO core requirement in the following year, and hence was eligible to apply for the full Title II Formula Grants Program allocation to the state for both FFYs 2011 and 2012. (From 2000 through 2010, the state had been cumulatively penalized over \$2.7 million dollars in federal Formula Grant funding.)

Strategies to maintain compliance with DSO:

Continue commitment and expansion of the Juvenile Detention Alternatives Initiative (JDAI) in Washington State. These efforts will be maximized by the dedication of federal Formula grant dollars by the state advisory group to detention alternatives, and through partnering state funds

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).

specifically allocated for the JDAI by the state legislature, and that are provided by the AECF.

The Council will work collaboratively in providing leadership in the area of juvenile justice for Washington, and is planning to convene a specific leadership/oversight group for the JDAI in 2012-13 (working in partnership with the Washington Association of Juvenile Court Administrators and the Administrative Office of the Courts).

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 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.

Support research studies and evaluation efforts that focus on the status offender population, and continue to provide information regarding the valid court order exclusion (and the potential elimination of the VCO), a focus area of the Council's Legislative Standing Committee.

Compliance with DMC:

States are required to address juvenile delinquency prevention efforts 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"). Washington State has historically met the federal criteria for compliance with this core requirement.

Disproportionate minority contact is the number one priority of Washington's state advisory group (the WA-PCJJ). Washington's RRI reveals

that youth of color are treated disproportionately in the juvenile justice system. Further, studies conducted in the state have confirmed that minority youth are disproportionately represented as a youth progresses through the juvenile justice system. The difference between minority and non-minority juveniles' representation becomes amplified with each successive decision point.

The state advisory group established a DMC Standing Committee, which began meeting in June 2011, and now meets on a monthly basis. This standing committee has developed a comprehensive Action Plan; the Arrest and Referral focus area was selected by the standing committee as a priority for funding. Work groups were formed in April 2012 for each identified priority area. The SAG also contracted with the University of Washington to conduct the first two phases of a 3-phase DMC Assessment.

A RFP was released in December 2011 for DMC-specific projects. Proposals were required to identify the decision point where disproportionality existed, and address a specific identified minority population. Priority was given to areas shown by RRIs to have significant DMC that would be targeted by the proposals. Five projects were selected for funding -- from April through December 2012.

An additional \$300,000 was allocated by the state advisory group to the DMC Arrest and Referral focus area. The DMC and Behavioral Health Standing Committees of the Council are working collaboratively in developing criteria for this RFP. It is anticipated the RFP will be released in early 2013. See the "Minority Youth in the Juvenile Justice System" and the "Programs and Projects" sections of this report for additional information on Washington State's efforts in addressing DMC.

Additionally--in March 2012 recommendations were presented from the **Juvenile Justice Subcommittee of the Task Force on Race and the Criminal Justice System** to address the disproportionality in WA's juvenile justice system (recommendations for the WA Supreme Court, WA State Bar Assoc., local governments/courts, State Legislature, law enforcement, prosecutors, public defenders and attorneys representing youth in juvenile court, law schools and schools). See *Preliminary Report and Recommendations to the Supreme Court to Address the Disproportionality in Washington's Juvenile Justice System*, March 28, 2012.
