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 2015, 81 law enforcement departments (with the ability to securely detain) and jails received onsite compliance visits, and an additional 4 law enforcement facilities were inspected that were determined to be non-secure.

During calendar year 2014, 59 juveniles were held in adult jails, holding facilities or lockups in Washington State in violation of the federal JJDP Act. The majority (73 percent) were violations of both the jail removal and DSO requirements of the federal Act, as status offenders[1] were held in secure custody status in the adult jail, holding facility or lockup.[2] The majority of these violations occurred in city lockups, and approximately two-thirds of the status offenders securely held were runaway youth securely detained for a short time awaiting transport, or awaiting pickup by parents/guardians. The total jail removal violations were within the numerical deminimus rate allowable for Washington State under federal JJDP Act regulations.

Note: There were also 43 MIPs/MICs securely detained in adult lockups or jails temporarily during calendar year 2014; per the federal OJJDP's direction (see below), these youth were not counted as violations of DSO. Historically, approximately one-half of the status offender

[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.

violations in jails and lockups for Washington State were 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 (August, 2015) there are a total of 216 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 2013, data continued to be collected from 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); and from detention data systems maintained by three individual facilities. 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 2,773 admissions[3] of status offenders to local juvenile detention facilities in calendar year 2014 for violations of a court order/ proceeding related to a status offense -- a 1.4% decrease in admissions from 2013. The majority (89%) were detained for contempt of court or FTA related to an At-Risk Youth or Truancy order/ proceeding; approximately 47% were female youth, and 53% were male youth.

From 2008 to 2009, the number of admissions of status offenders to secure detention pursuant to a court order/proceeding decreased notably in Washington State -- by 45% (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 per the JJDP Act, Sect. 223 (A)(11) (A) (ii), and 223 (A)(23)(A-C).

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

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 2014, there are 34 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 951 admissions of youth in SFY 2014 (July 2014 - June 2015), a 18.7 percent decline from SFY 2013 when there were 1,170 admissions/placements[4] of youth total within the operating Secure CRCs.

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 2013, there were approximately 118 admissions of youth to the two S-CRCs located within specific designated areas of juvenile detention centers, and 40 violations total for these two facilities. These violations do not include youth placed in these two 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,[5] 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 has also been found in compliance with the DSO core requirement for the past 4 years, and hence has been eligible to apply for the full Title II Formula Grants Program allocation to the state in FFYs 2011 through 2015. (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 specifically allocated for the JDAI by the state legislature, and that are provided by the AECF, and through the oversight and guidance of the JDAI statewide steering committee (established in SFY 2014).
- Continue to provide technical assistance to adult jails and lockups statewide regarding DSO and jail removal requirements (this includes resources for law enforcement), with

[4] Data obtained from the DSHS Research & Data Analysis (RDA), Executive Management Information System (EMIS) Report, "Crisis Residential Center Services - Admissions," generated August 2013.

[5] 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.

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 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 specifically regarding the valid court order (VCO) exclusion. In April 2014 the SAG approved allocating $50,000 in federal Formula Grant funds for a study to gather additional data and information on the use of the VCO in Washington--with intended outcomes including providing a detailed picture of who is being securely confined in juvenile facilities pursuant to a status offense and why, as well as to provide direction for how Washington State could operate without the VCO and to provide guidance and options for counties around the state in implementing alternative strategies. This study will inform the Council's overall goal of developing a workplan with stakeholders to reduce and eliminate the use of the valid court order exception for contempt of court.

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 (known as Disproportionate Minority Contact or "DMC", or Racial & Ethnic Disparities R.E.D.). Washington State has historically met the federal criteria for compliance with this core requirement. Relative Rate Index (RRI) are a tool utilized across the country to obtain a snapshot of disproportionality at each decision point in the juvenile justice system.

Reducing Racial and Ethnic Disparities 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 a DMC Assessment. The assessment was completed in February 2013. Additional information on the results can be found in the Minority Youth section of this report and on the Office of Juvenile Justice website - www.dshs.wa.gov/ra/office-juvenile-justice.

The state advisory group allocated $300,000 to the DMC Arrest and Referral focus area. The DMC and Behavioral Health Standing Committees of the Council worked collaboratively to develop criteria for a Request for Proposals (RFP). The RFP was released and one project was selected to receive funding for up to two years. The funded project is with the Colville Tribes for a "Colville Tribal Youth Diversion Program." Final evaluation report is due in September 2014.

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 Count to Address the Disproportionality in Washington's Juvenile Justice System,* March 28, 2012.

Additionally, "Moving Forward: Positive Efforts Towards Reducing Racial and Ethnic Disparities in the Juvenile Justice System" was presented in May 2014 at the Washington State Supreme Court Symposium.

The WA-PCJJ continues to reach out to other agencies/organizations to collaborate efforts on this vital issue of fairness and equality for our youth.

The WA-PCJJ Juvenile Justice System Recommendations include several recommendations regarding Racial and Ethnic Disparities. (See the Juvenile Justice System Recommendations on page one of this report).

The Prison Rape Elimination Act (PREA)

Youth in Adult Facilities: While youth in the juvenile justice system are protected by the JJDPA core requirements of sight and sound separation and jail removal (separating juveniles from adult in secure facilities, and removing juveniles from adult jails and lockups), there were not standards in place governing the placement (and separation) of juveniles under age 18 who are under adult court supervision and incarcerated or detained in an adult prison, jail, or lockup.

The final PREA rule, effective August 2012, contains a standard that governs the placement of juveniles in adult facilities. The PREA youthful inmate standard applies only to persons under the age of 18 who are under adult court supervision and incarcerated or detained in a prison, jail, or lockup. Such persons are, for the purposes of this standard, referred to as "youthful inmates" (or, in lockups, "youthful detainees").

This standard imposes three requirements:

- First, no inmate under 18 may be placed in a housing unit where contact will occur with adult inmates in a common space, shower area, or sleeping quarters.
- Second, outside of housing units, agencies must either maintain "sight and sound separation"—i.e., preventing adult inmates from seeing or communicating with youth—or provide direct staff supervision when the two are together.
- Third, agencies must make their best efforts to avoid placing youthful inmates in isolation to comply with this provision and, absent exigent circumstances, must afford them daily large-muscle exercise and any legally required special education services, and must provide them access to other programs and work opportunities to the extent possible.

While the Office of Juvenile Justice, staff to the state advisory group, does not monitor adult or juvenile facilities for PREA, the compliance monitors do share and distribute information on PREA, and provide contact information for assistance for facilities at WASPC and the CJTC.

The state advisory group has re-distributed a framework for a model policy/practice regarding the housing of youthful inmates in local facilities that aligns with the PREA standard. This framework was distributed to juvenile court administrators, adult jail administrators, and Sheriffs in 2008 and was updated in 2013.

The PREA also establishes a set of standards for juvenile facilities. Juvenile facilities are defined as "primarily used for the confinement of juveniles pursuant to the juvenile justice system or criminal justice system." A juvenile is any person under the age of 18 "unless under adult court supervision and confined or detained in a prison or jail."

For additional information pertaining to youth in juvenile and adult facilities and the PREA standards, national resources include:

- **The National PREA Resource Center**: http://www.prearesourcecenter.org/
- **Center for Children's Law and Policy:** http://www.cclp.org/prea.php
- **OJJDP** - *The PREA and the JJDPA: Important Protections for Youth in Custody*, October 11, 2012, available at: https://www.nttac.org/media/trainingCenter/41/PREA_PPT_