

INDIANA'S

JUVENILE JUSTICE AND DELINQUENCY
PREVENTION ACT OF 2002

COMPLIANCE MONITORING

POLICY AND PROCEDURE MANUAL

2006

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1.0 INTRODUCTION TO AND DESCRIPTION OF THE JJDP ACT'S FOUR CORE MANDATES

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Statement of Purpose:

Since its passage in 1974, the Juvenile Justice and Delinquency Prevention (JJDP) Act has changed the way states and communities deal with troubled youth. The original goals of the JJDP Act were to help state and local governments prevent and control juvenile delinquency and to improve the juvenile justice system. The JJDP Act also aims to protect juveniles in the juvenile justice system from inappropriate placements and from the physical and psychological harm that can occur as a result of exposure to adult inmates.¹

The JJDP Act, through the 2002 reauthorization², establishes four core mandates with which participating states and territories must comply in order to receive grants under the JJDP Act:

- Deinstitutionalization of status offenders (DSO);
- Separation of juveniles from adults in institutions (Sight and Sound Separation);
- Removal of juveniles from adult jails and lockups (Jail Removal); and
- Reduction of disproportionate minority contact (DMC), where it exists.

A state's level of compliance with each of the four core mandates determines eligibility for its continued participation in the grant programs. For example, failure to achieve or maintain compliance, despite good faith efforts, reduces the grant to the state by 20 percent for each core mandate not met. In addition, the noncompliant state must agree to expend 50 percent of the state's allocation for that year to achieve compliance with the core mandates with which it is not in compliance.³

The JJDP Act is more than a funding statute; it also creates an enforceable private right of action. States assume duties when they accept federal funds, and when those duties

¹ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007 2003, pg 1.

² The federal regulations have not yet been promulgated for the JJDP Act's 2002 reauthorization.

³ 42 U.S.C. § 5633(c)

are breached, a juvenile may seek a remedy pursuant to 42 U.S.C. Section 1983.⁴ Noncompliance opens the door to section 1983 conditions of confinement litigation raising damage claims under the 8th Amendment Cruel and Unusual Punishment Clause and the 14th Amendment Due Process Clause. For example, in D.B. v Tewskbury, 545 F. Supp. (D. Or. 1982), the court found the practice of jailing juveniles to be a per se constitutional violation of the 14th Amendment. Other claims that are likely to be raised are: classification and safety issues; inadequate programming for juveniles; inadequate educational programming (especially special education); and inadequate mental health care.

As part of the strategy for maintaining compliance, states must provide for an adequate system of monitoring to ensure that the core mandates are met. States must visit and collect information from secure facilities holding juveniles to demonstrate compliance with the JJDP Act. On an annual basis, each state submits this information in the form of a Compliance Monitoring Report to the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The report provides compliance data and a detailed description of how the state is meeting the core mandates.⁵

INDIANA'S JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 2002 COMPLIANCE MONITORING POLICY AND PROCEDURE MANUAL describes Indiana's monitoring system and serves as a training and reference manual for the Indiana Criminal Justice Institute, Juvenile Justice Specialist and the ICJI Compliance Monitor, the agency serving as the compliance monitor.

⁴ Hendrickson v. Griggs, 672 F. Supp. 1126 (N.D. 1987); Horn by Parks v Madison County Fiscal Court 22 F. 3d. 653 (6th Circuit 1994).

⁵ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 2.

1.1 DEINSTITUTIONALIZATION OF STATUS OFFENDERS (DSO)

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General Rule of the DSO mandate of the JJDP Act:

The Deinstitutionalization of Status Offenders (DSO) mandate states that there are three types of juveniles that should not be placed in secure detention facilities or secure correctional facilities:

1. Status offenders (juveniles under court jurisdiction who are charged with or who have committed an offense that would not be criminal if committed by an adult);
2. CHINS (juveniles under court jurisdiction who are not charged with any offense and who are alleged to be dependent, neglected, or abused); and
3. Aliens (juveniles who are not charged with any offense and who are not United States citizens).⁶

Under the Indiana Juvenile Code, the status offenses are runaway, truancy, curfew violation, incorrigibility, illegal possession, consumption, or transportation of alcohol, and minors and fireworks violations.⁷ Alcohol offenses under I.C. 31-37-2 must be classified as status offenses for JJDP Act reporting purposes. It is the long standing opinion and policy of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) that alcohol offenses are status offenses because the time period for which alcohol offenses are considered criminal offenses is very limited, (i.e. 3 years) and the age at which alcohol offenses are not criminal offenses is very broad (i.e. after the age of 21).⁸

The JJDP Act does not apply to mental health civil commitments. A juvenile committed to a mental health facility under a separate state law governing civil commitment of individuals for mental health treatment or evaluation are considered outside the class of juvenile status offenders and nonoffenders. This distinction does not permit placement

⁶ 42 U.S.C. § 5633(a)(11)

⁷ I.C. 31-37-2

⁸ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 21.

of status offenders or nonoffenders in a secure mental health facility where the court is exercising its juvenile status offender or nonoffender jurisdiction.⁹

Exceptions to the General Rule:

1. Juveniles who are charged with or who have committed a violation of 18 U.S.C. 922(x)(2) of the Youth Handgun Safety Act, or of a similar state law, are exempt from the DSO mandate. 18 U.S.C. 922(x)(2) states that it shall be unlawful for a juvenile to knowingly possess a handgun or ammunition that is suitable for use only in a handgun.¹⁰ Because the Youth Handgun Safety Act applies only to juvenile offenders and handgun possession, in most cases, would not be a crime if committed by an adult, it fits the definition of a status offense. However, the Violent Crime Control and Law Enforcement Act of 1994, Subtitle B, Youth Handgun Safety, amended the JJDP Act to provide that juveniles who violate 18 U.S.C. 922(x)(2), or of a similar state law, can be placed in secure detention or secure correctional facilities without violating the DSO requirement.¹¹
2. Juveniles who are charged with or who have committed a violation of a valid court order (VCO) are exempt from the DSO mandate.

For secure detention to be proper under the VCO exception, the following conditions must be present prior to secure incarceration:

1. The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.
2. The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedure.
3. The juvenile in question must have received adequate and fair warning of the consequences of violation of the order...and such warning must be provided to the juvenile and to his attorney and/or his legal guardian in writing and be reflected in the court record and proceedings.¹²
4. An appropriate public agency shall be promptly notified that the juvenile is held in custody for violating such order.

⁹ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 32.

¹⁰ 42 U.S.C. § 5633(a)(11)

¹¹ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 22.

¹² 28 C.F.R. § 31.303(f)(3)

5. Not later than twenty-four (24) hours during which the juvenile is held, an authorized representative of the public agency shall interview, in person, the juvenile.
6. Not later than forty-eight (48) hours during which the juvenile is held (1) the representative of the public agency shall submit an assessment to the court that issued the order, regarding the immediate needs of the juvenile and (2) the court shall conduct a hearing to determine whether there is reasonable cause to believe that the juvenile violated the order and the appropriate placement of the juvenile pending disposition of the violation alleged.¹³

The VCO exception applies only to the extent allowed by state law. Indiana law only permits the VCO exception in two cases; when (1) a new act of runaway follows a qualifying previous runaway adjudication or when (2) a new act of truancy follows a qualifying previous truancy adjudication.¹⁴ A “qualifying previous adjudication” is an adjudication that follows the state’s VCO requirements. (Indiana law does not contain the interviews and assessment requirements of the JJDP Act. Therefore, Indiana law does not comply with the JJDP Act. Indiana will likely change its legislation to be consistent with the JJDP Act’s VCO requirements when the new federal regulations are promulgated.)

The practical effect of the VCO exemption is that if a juvenile is detained for Violation of Probation for a repeat runaway or repeat truancy offense, he/she must have a modification hearing within twenty-four (24) hours or be released from secure detention pending further modification proceedings. If the juvenile is securely detained beyond this twenty-four (24) hour period, the court loses the dispositional alternatives to commit the juvenile to the department of correction or other secure placement.¹⁵

Traditional contempt power, failure to appear, or probation violation cannot be used as charges to elevate a status offender into a criminal-type offender. Therefore, detention alternatives and dispositional alternatives available to the court for contempt, failure to appear, or probation violation charges are the same as those available to the court for status offenders. Therefore, a status offender cannot be securely detained for being in contempt of court, failing to appear, or violating a term of probation.¹⁶

3. Juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by Indiana are exempt from the DSO mandate. Out-of-state runaways securely held beyond 24 hours solely for the purpose of being returned

¹³ 42 U.S.C. § 5633(a)(21)

¹⁴ I.C. 31-37-22-5 and I.C. 31-37-22-6

¹⁵ See *R.A. v. State*, 770 N.E.2d 376 (Ind. Ct. App. 2002)

¹⁶ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 24.

to proper custody in another state must be reported as violations of the DSO mandate. However, juveniles held pursuant to the Interstate Compact on Juveniles are excluded from the DSO requirements in total.¹⁷

4. Federal wards held beyond 24 hours in state and local secure detention and correctional facilities pursuant to a written contract or agreement with a federal agency and for the specific purpose of affecting a jurisdictional transfer, or appearance as a material witness, or for return to their lawful residence or county of citizenship must be reported as violations of the DSO Mandate.¹⁸ However, because state and local governments do not have jurisdiction over these juveniles, the OJJDP will exclude these violations if their presence creates a noncompliance rate in excess of 29.4 per 100,000 juvenile population.¹⁹
5. Accused status offenders held in a secure juvenile facility for up to twenty-four (24) hours, excluding weekends and holidays, prior to an initial court appearance, and for twenty-four (24) hours, excluding weekends and holidays, following an initial court appearance are exempt from the DSO mandate.²⁰ A status offender so detained must be held in a juvenile facility: a status offender may not be securely held in an adult jail or lockup for any period of time. However, an accused status offender may be held in an unlocked, multipurpose area of an adult jail or lockup like a lobby or report room, so long as he/she is kept under continual visual supervision until release.

Indiana law differs from the JJDP Act in that the Act allows any accused “status offender” to be held in a secure juvenile detention facility for up to twenty-four (24) hours, excluding weekends and holidays, prior to an initial court appearance and for twenty-four (24) hours, excluding weekends and holidays, following an initial court appearance.²¹ Therefore, the JJDP Act permits juveniles accused of curfew violation, truancy, incorrigibility, alcoholic beverage code violations, or fireworks violations to be held in a juvenile detention facility for such twenty-four (24) hour periods. But Indiana law is narrower, limiting the exception to children accused of runaway only.²²

¹⁷ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 22.

¹⁸ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 22.

¹⁹ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 23, fn. 13.

²⁰ 28 C.F.R. § 31.303(f)(2)

²¹ 28 C.F.R. § 31.303(f)(2)

²² I.C. 31-37-7-3

1.2 SIGHT AND SOUND SEPARATION

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General Rule of the Sight and Sound Separation mandate of the JJDP Act:

The Sight and Sound Separation mandate states that juveniles alleged to be or found to be delinquent, status offenders, non-offenders, and juveniles under adult court jurisdiction for misdemeanor offenses should not be detained or confined in any institution in which they have contact with adult inmates.²³

“Contact” is defined as any physical or sustained sight or sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. “Sight contact” is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. “Sound contact” is defined as direct oral communication between incarcerated adults and juvenile offenders.²⁴

Sight and sound separation may be accomplished architecturally or through policies and procedures such as time phasing the use of an area to prohibit simultaneous use by juveniles and adults. Brief and inadvertent or accidental contacts between juvenile offenders in a secure custody status and adult inmates in secure nonresidential areas of the facility do not count as violations.²⁵

When a secure booking area is all that is available in an adult facility, if there is continuous visual supervision 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 and separation would not apply during the time. Once the booking process has been completed, the juvenile must be separated immediately from adult inmates.²⁶

²³ 42 U.S.C. § 5633(a)(12)

²⁴ 28 C.F.R. § 31.303(d)(1)(i)

²⁵ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 15.

²⁶ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 15.

1.3 JAIL REMOVAL

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General Rule of the Jail Removal mandate of the JJDP Act:

The Jail Removal mandate of the JJDP Act states that no juvenile should be detained or confined in any jail or lockup for adults.²⁷

The JJDP Act and Indiana law are consistent in forbidding accused “status offenders” from being held in an adult jail or lockup for any period of time.²⁸

Exceptions to the General Rule:

1. Criminal-type juvenile offenders may be securely held in an adult jail or lockup for a period of up to six (6) hours upon arrest for the specific purposes of identification, processing and transfer to other facilities.²⁹ The JJDP Act also allows criminal-type juvenile offenders to be securely held in an adult jail or lockup for up to six (6) hours before and six (6) hours after a court hearing to facilitate the hearing process and transport to placement.³⁰ “Any such holding of a juvenile criminal-type offender must be limited to the absolute minimum time necessary to complete this action, not to exceed six hours, and in no case overnight. Even where such a temporary holding is permitted, the ...separation requirement would operate to prohibit the accused juvenile criminal-type offender from being in sight or sound contact with an adult offender during this brief holding period.”³¹

The JJDP Act differs from Indiana law in that Indiana law limits detention in an adult jail or lockup to six (6) hours upon arrest for the limited purposes of identification, processing, interrogation, transfer to a juvenile detention facility, or release to parents.³² Indiana law does not permit detention in an adult jail or lockup for up to six (6) hours before and up to six (6) hours after a court hearing. If a juvenile is held in a part of the facility that is not locked, such as a lobby or administrative area where persons are free to leave, the six (6) hour rule does not apply.

²⁷ 42 U.S.C. § 5633(a)(13)

²⁸ 28 C.F.R. § 31.303(f)(5)

²⁹ 42 U.S.C. § 5366(a)(13)

³⁰ 28 C.F.R. § 31.303(e)(2)

³¹ 50 Fed.Reg. 25,554 (1985)

³² I.C. 31-37-7-2

Federal law provides that the six (6) hour period begins when an accused criminal-type juvenile offender is placed in a locked setting, including a locked room, cell, lockup, or set of rooms inside a facility used for detention purposes or handcuffed to a stationary object. Once the clock begins to run, it may not be tolled (stopped), even if the juvenile is temporarily removed from locked status. If a juvenile is locked in one jurisdiction and then transported to another, the receiving jurisdiction does not get an additional six (6) hour period upon receiving the child.³³

The following do **not** cause the clock to begin:

- placing a juvenile in a locked police car;
- handcuffing a juvenile to him/herself; or
- placing a juvenile in an unlocked area or room.

Nothing in federal law or Indiana law seems to prevent the transportation of children with adult offenders, although departmental regulations, policy considerations, and prudential concerns may weigh against this practice in many instances.

2. OJJDP regulations implement a statutory “rural” exception, allowing the temporary detention beyond the 6-hour limit of juveniles in rural areas accused of delinquent offenses who are awaiting an initial court appearance within 48 hours (excluding weekends and holidays).³⁴ However, there are no Indiana counties that qualify for the rural exception.
3. The Jail Removal mandate also exempts (1) those juveniles formally waived to criminal court and against whom criminal felony charges have been filed and (2) juveniles over whom a criminal court has original jurisdiction and such jurisdiction has been invoked through the filing of criminal felony charges.³⁵ This exception is expressly limited to juveniles under criminal court jurisdiction facing felony charges. Therefore, juveniles under adult criminal court jurisdiction facing misdemeanor charges cannot be held in an adult jail or lockup for more than six (6) hours upon arrest.

There are three situations when detention pursuant to Indiana law violates the Jail Removal mandate of the JJDP Act.

1. Pursuant to Indiana law, the juvenile court does not have jurisdiction over a juvenile age sixteen (16) or older who has allegedly committed a

³³ OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002, January 2007, pg. 12.

³⁴ OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002, January 2007, pg. 13.

³⁵ 31 C.F.R. § 31.303(e)(2)

violation of a traffic law, if the violation is a misdemeanor.³⁶ Since the JJDP Act exempts from the jail removal mandate only those juveniles under adult criminal court jurisdiction which has been invoked through the filing of felony charges, the pre-trial detention of a juvenile accused of a misdemeanor traffic offense in excess of six (6) hours upon arrest and the sentencing of such an offender to any time in an adult jail or lockup are violations of the JJDP Act.

2. Pursuant to Indiana law, certain persons under the age of eighteen (18) years, but at least sixteen (16) years of age, are excluded from juvenile court jurisdiction because they are alleged to have committed one or more of a series of “direct file” or “automatic adult jurisdiction” offenses.³⁷ The “direct file” offenses are: murder; rape; kidnapping; criminal deviate conduct; robbery committed while armed with a deadly weapon or which results in bodily or serious bodily injury; carjacking; criminal gang activity; criminal gang intimidation; carrying a handgun without a license; children and firearms; dealing in a sawed-off shotgun; and several drug offenses if there has been a previous drug conviction or juvenile adjudication.³⁸ All the direct file offenses are felonies except for the carrying a handgun without a license and the “children and firearms” offenses. The pre-trial detention of a juvenile accused of a misdemeanor direct file offense in excess of six (6) hours upon arrest and the sentencing of such an offender to any time in an adult jail or lockup are violations of the JJDP Act.
3. Pursuant to Indiana law, certain persons under the age of eighteen (18) years are excluded from juvenile court jurisdiction because they have been “waived” to the adult court. Waiver is a proceeding that originates in the juvenile court. The statutes permitting juvenile waiver to the adult court contain both misdemeanor and felony offenses.³⁹ Juveniles awaiting waiver are detainable in juvenile facilities only. Once juveniles are waived to adult court, any subsequent criminal act will be filed with the adult court, regardless of the act’s felony or misdemeanor status.⁴⁰ The pre-trial detention of a juvenile waived to the adult court, and accused of a misdemeanor offense, in excess of six (6) hours upon arrest and the sentencing of such an offender to any time in an adult jail or lockup are violations of the JJDP Act

³⁶ I.C. 31-30-1-2(1). Exceptions to this law are Lake and Marion counties. See I.C. 33-5-29.5-4(b) and I.C. 33-5-35-1.4(b).

³⁷ I.C. 31-30-1-4 (or any offense which may be joined with those offenses under I.C. 35-34-1-9(a)(2)).

³⁸ I.C. 31-30-1-4

³⁹ I.C. 31-30-3

⁴⁰ I.C. 31-30-1-2

1.4 DISPROPORTIONATE MINORITY CONTACT (DMC)

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General Rule of the DMC mandate of the JJDP Act:

The state will 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.⁴¹

⁴¹ 42 U.S.C. § 5633(a)(22)

2.0 COMPLIANCE MONITORING PLAN

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Statement of Purpose:

Indiana is required to have a written plan that provides for an adequate system of monitoring secure and non-secure facilities that hold juveniles to ensure that the JJDP Act's core mandates are being complied with.⁴² The plan must describe how the following tasks are achieved, and the plan must note the specific agency and employee and/or contractor who completes the task.⁴³

The Compliance Monitoring Plan must:

1. Document the existence of written Policies and Procedures governing the implementation of an adequate compliance monitoring system.
2. Document and describe the authority under which the DSA tasked with compliance monitoring enters facilities to inspect and collect data from all facilities in the monitoring universe.
3. Describe a procedure and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities, and non-secure facilities.
4. Describe legislative and administrative procedures and sanctions established for receiving, investigating, and reporting complaints of violations of the JJDP Act core requirements.
5. Provide a description of the barriers the state faces in implementing and maintaining a monitoring system to report compliance with the JJDP Act core requirements and how the state plans to overcome such barriers.
6. Contain definitions used to classify facilities and identify the types of behavior of the juveniles to be counted for monitoring purposes.
7. Document how the state will identify all facilities in the state that might hold juveniles pursuant to public authority.

⁴² 42 U.S.C. § 5633(a)(14)

⁴³ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 34 – 35.

8. Document how the state will classify all facilities in the state that might hold juveniles pursuant to public authority.
9. Document how the state will inspect facilities to ensure an accurate assessment of each facility's classification.
10. Document how data collection and on-site data verification to determine whether facilities are in compliance with the JJDP Act core requirements.

Policy:

Indiana has a written plan that provides for an adequate system of monitoring secure and non-secure facilities that hold juveniles to ensure compliance with the core requirements of the JJDP Act. Indiana's written plan will be referred to as the Compliance Monitoring Plan.

Procedures:

The ICJI Compliance Monitor and the Juvenile Justice Specialist will annually review the written Compliance monitoring Plan to ensure that it provides for an adequate system of compliance monitoring.

Attachments: None

2.1 DESCRIPTION AND TIMETABLE OF THE COMPLIANCE MONITORING TASKS

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Statement of Purpose:

Indiana is required to have a state monitoring plan that includes a detailed description and timetable of the following compliance monitoring tasks: identification of the monitoring universe; classification of the monitoring universe; inspection of facilities; and data collection and data verification.⁴⁴

Policy:

The Compliance Monitoring Plan includes a detailed description and timetable of the following compliance monitoring tasks: (1) identification of the monitoring universe; (2) classification of the monitoring universe; (3) inspection of facilities; (4) data collection; (5) data verification; (6) report writing; and (7) training and technical assistance.

Procedures:

- A. The ICJI Compliance Monitor will meet with the Juvenile Justice Specialist (JJS) during the fourth quarter of the calendar year (October – December) to discuss the adequacy of the compliance monitoring timetable and tasks described in the Compliance Monitoring Plan.
- B. The ICJI Compliance Monitor will produce a STATE OF INDIANA COMPLIANCE MONITORING TIMETABLE consistent with the notes from the meeting.
- C. The STATE OF INDIANA COMPLIANCE MONITORING TIMETABLE will be presented to the State Advisory Group (SAG) for approval at the SAG's meeting in the first quarter of the state fiscal year (January – March).

Attachment(s): STATE OF INDIANA COMPLIANCE MONITORING TIMETABLE

⁴⁴ 28 C.F.R. § 31.303(f)(1)

STATE OF INDIANA COMPLIANCE MONITORING TIMETABLE

TASK	TIME PERIOD	AGENCY RESPONSIBLE	PROCESS
IDENTIFICATION	Fourth Period of the calendar Year (October – December)	The ICJI contracted Compliance Monitor	The following agencies will be contacted to obtain a current list of facilities that hold juveniles under court jurisdiction: (1) Indiana Department of Child Services; (2) Indiana Department of Corrections; (3) Indiana Sheriffs' Association; (4) Indiana Association of Chiefs of Police; (5) Indiana Association of Residential Child Caring Agencies; and (5) Indiana Juvenile Detention Association. After receiving the current list, surveys will be submitted to the administrators of those facilities. Information collected, via the surveys, pertaining to the identification of facilities that hold juveniles under court jurisdiction will be recorded on the appropriate Monitoring Facility Master List.
CLASSIFICATION	First Period of the calendar Year (January – March)	The ICJI Compliance Monitor	The information collected via the identification surveys submitted to juvenile holding facilities, pertaining to the classification of facilities will be recorded as (1) private or public; (2) juvenile, adult, or collocated; and (3) secure or non-secure on the appropriate Monitoring Facility Master List. The self-reported classifications of all facilities new to the compliance monitoring universe will be verified via on-site inspection. The classification of "collocated" must be reviewed annually with an onsite facility inspection.

<p>INSPECTION</p>	<p>Calendar Year (January 1-December 31)</p>	<p>The ICJI contracted Compliance Monitor</p>	<p>Facility administrators will be contacted to schedule a date and time for a site inspection. The following will be performed at each inspection: (1) review of the physical accommodations; (2) the obtaining of a facility layout; (3) the obtaining of the facility's policies and procedures; (4) determination how each facility maintains its records; (5) a review of original data source for consistency with records reported to ICJI Compliance Monitor; and (6) the provision of training and technical assistance, when needed. Each facility will receive a copy of the <u>Monitoring for Compliance with the JJDP Act</u> manual. The Compliance Monitoring On-Site Summary Results will be made available to the facility as a record of findings of the inspection. Issues of facilities' noncompliance with site inspection requests will be addressed with the Juvenile Justice Specialist in written form, with a copy being sent to the non-cooperating facility. The site inspection records will be maintained in the facility's file. Frequency of on-site inspection will occur according to facility type: (1) all juvenile detention facilities will be inspected on an annual basis; (2) at least 10% of juvenile correctional facilities (including IDOC facilities and all identified residential facilities) will be inspected annually, with all facilities inspected within 3 years; (3) at least 10% of all adult jails and lockups will be inspected annually, with all inspected within 3 years.</p>
<p>DATA COLLECTION</p>	<p>Calendar Year (January 1 – December 31)</p>	<p>Indiana Criminal Justice Institute – Juvenile Justice Specialist and the contracted compliance monitor, the ICJI Compliance Monitor and facilities holding juveniles under court jurisdiction</p>	<p>Data will be collected in the following manner: (1) facilities identified and classified as secure will be required to report relevant data via the web-based reporting system. Facility staff will be trained on the web-based system; (2) facilities in counties using the Quest case management system will consult with the ICJI Compliance Monitor to ensure that data required under the JJDP Act is accurately reported through Quest; (3) facilities which do not have internet access will report data on the Log of Juveniles Held form and submit said forms to the ICJI Compliance Monitor on at least a monthly basis; (4) facilities identified and classified as non-secure will</p>

			submit written certification of non-secure status on an annual basis. Violation reports, monthly logs and data gathered will be maintained at the office of the ICJI Compliance Monitor for one year. Thereafter, the data will be maintained at the Indiana Criminal Justice Institute.
DATA VERIFICATION	Calendar Year (January 1 – December 31)	The ICJI contracted Compliance Monitor	The web-based reporting system will generate a Violation Report of potential JJDP Act violations. The Violation Report will be reviewed on-site and compared to the original data source maintained by the facility. At least 10% of all VCO's will be verified by acquiring the appropriate court and detention documentation. Additionally, a random sample of all data reported will be reviewed on-site and compared to the original data source maintained by the facility. During the data verification process, identified and classified facilities which do not report data will be identified. The ICJI Compliance Monitor will send letters to those facilities offering Training and Technical Assistance in the development of record keeping systems.
REPORT WRITING	Second Period of the Calendar Year (April – June)	Indiana Criminal Justice Institute – Juvenile Justice Specialist and the ICJI contracted Compliance Monitor	Narrative portions of the annual report to the OJJDP will be written collaboratively by the ICJI Compliance Monitor and Juvenile Justice Specialist.
TRAINING AND TECHNICAL ASSISTANCE	Calendar Year (January 1 – December 31)	Indiana Criminal Justice Institute – Compliance Monitor, Juvenile Justice Specialist, T &TA Staff, & Support Staff	Training and technical assistance on JJDP Act Compliance will be made available to all facilities and agencies within the JJDP Act compliance monitoring universe.

2.2 COMPLIANCE MONITORING BARRIERS AND STRATEGIES

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

Indiana is required to have a state monitoring plan that includes a description of the barriers faced in implementing a JJDP Act compliance monitoring system and the state and local strategies and plans to overcome those barriers.⁴⁵

Policy:

The Compliance Monitoring Plan includes the identification of barriers and the strategies to overcome those barriers.

Procedures:

- A. The ICJI Compliance Monitor will submit, for discussion at the State Advisory Group's meeting during the 1st quarter of the calendar year (January – March), a written report on the following:
 - 1. Barriers faced in implementing and maintaining a monitoring system and barriers faced in maintaining compliance with the JJDP Act. Barriers will be documented with data from the most recent reporting period.
 - 2. Recommendations for state and local strategies and plans to overcome those barriers.
- B. The State Advisory Group (SAG) will discuss the current JJDP Act compliance status and the barriers to compliance and will develop state and local strategies to overcome the barriers. The discussions will be recorded in the meeting's minutes.
- C. The ICJI Compliance Monitor will create a written plan to address the barriers in the coming year. The SAG will approve the plan during the meeting in the 2nd quarter of the calendar year (April – June).
- D. The Indiana Criminal Justice Institute and the ICJI Compliance Monitor will implement the written plan and will provide written and/or oral updates to the SAG, as requested.

Attachments: None

⁴⁵ 28 C.F.R. § 31.303(f)(1)(ii)

2.3 COMPLIANCE VIOLATION PROCEDURES

Date Issued:	July 2006
Review Date:	January 2007; annually thereafter
Last Review:	2007

Statement of Purpose:

Indiana is required by OJJDP to have a state monitoring plan that includes a description of the procedures established for receiving, investigating, and reporting complaints of JJDP Act violations of DSO, jail removal, and separation requirements. The description should include both legislative and administrative procedures and sanctions.⁴⁶

Policy:

- A. The Compliance Monitoring Plan includes the description of the legislative and administrative procedures established for receiving, investigating, and reporting complaints of JJDP Act violations of the DSO, jail removal, and separation requirements. The description also includes sanctions.
- B. The ICJI Compliance Monitor is the primary agent to receive, investigate, and respond to alleged compliance violations throughout the state.

Procedures:

- A. After the ICJI Compliance Monitor receives information regarding alleged violation(s), the ICJI Compliance Monitor will inform the facility, in writing, of the alleged violation(s) and request a documented response admitting or denying the violation(s).
- B. After receiving the facility's response, the ICJI Compliance Monitor will evaluate the documented response and determine whether a violation(s) exist. If necessary, the ICJI Compliance Monitor will perform an on-site inspection review of the facility's files, pursuant to the authority in policy 2.4.
- C. The ICJI Compliance Monitor will complete a JJDP ACT COMPLIANCE VIOLATION REPORT for each facility with an alleged violation or series of violations. Copies of the JJDP ACT COMPLIANCE VIOLATION REPORT will be given to the facility contact person and the Juvenile Justice Specialist and will be put into the facility's file, known as the Facility File.

⁴⁶ 28 C.F.R. § 31.303(f)(1)(iii)

D. Facilities with a pattern of practice that violates the JJDP Act and facilities that refuse to provide documentation responding to violation allegations will have those allegations determined to be violations and will be subject to the following sanctions:

1. The withholding of federal funds to the facility and facility's county by the Indiana Criminal Justice Institute;
2. Pursuit of legal remedies on behalf of individual juveniles by the State Public Defenders Office for Habeas relief; and
3. The approval of a Corrective Action Plan, including required training, by the Indiana Criminal Justice Institute.

Attachment(s): JJDP ACT COMPLIANCE VIOLATION REPORT

**JJDP ACT COMPLIANCE VIOLATION REPORT
(On Letterhead)**

Agency In Violation: Name of agency

Agency Address: Agency address

Agency Administrator: Contact person

Date of Violation(s): Date the alleged violation(s) occurred

Violation Narrative: Description of the violation(s)

Reason for Violation: Explanation of how core mandate(s) was/were violated

Agency Response: Agency's documented response to allegations

Investigative Activity: Description of additional investigative activity taken by the ICJI Compliance Monitor

Compliance Monitor: Name and contact information for compliance monitor completing report

Determination: Explanation of whether allegation(s) is/are determined to be violation(s)

Sanctions: Explanation of sanctions

Date of Report: Date you report submitted to facility, Juvenile Justice Specialist, and Facility File

2.4 COMPLIANCE MONITORING AUTHORITY

Date Issued:	July 2006
Review Date:	January 2007; annually thereafter
Last Review:	2007

Statement of Purpose:

Indiana is required to have a state monitoring plan that includes the legal authority to monitor all facilities in which juveniles might be placed under public authority. The monitoring authority should be sufficiently broad to permit the monitoring agency to require each facility that could be classified as secure to be inspected for classification purposes, to maintain specific juvenile admission and release records and permit the designated compliance monitor to review these records at selected intervals during the year.⁴⁷

Policy:

- A. The Compliance Monitoring Plan includes the legal authority for the Indiana Criminal Justice Institute (ICJI) to monitor all facilities in which juveniles might be placed under public authority. The ICJI is the state agency with authority, pursuant to I.C. 5-2-6-3, to prepare applications for funds under the JJDP Act.
- B. The ICJI has authority, pursuant to I.C. 31-39-3-2, to review records involving allegations of delinquency that would be a crime if committed by an adult, including:
 - 1. The nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved.
 - 2. The age and sex of any child apprehended or sought for the alleged commission of the offense.
 - 3. The identity of a child, if the child is apprehended or sought for the alleged commission of an offense over which a juvenile court does not have jurisdiction under I.C. 31-30-1-2 and I.C. 31-30-1-4 or an act specified under I.C. 31-30-3-3.
- C. The ICJI has authority, pursuant to I.C. 31-39-3-3, to review records relating to the detention of any child in a secure facility.

⁴⁷ OJJDP Guideline Manual Audit of Compliance Monitoring Systems, August 2000, pg. 1.

- D. The ICJI Compliance Monitor is authorized by the ICJI to perform the compliance monitoring tasks of the JJDP Act. The ICJI Compliance Monitor will report directly to the Juvenile Justice Specialist (JJS). The ICJI retains the accountability for the overall performance of the monitoring tasks.

Procedures:

- A. The ICJI Compliance Monitor will assist the Indiana Criminal Justice Institute (ICJI) in obtaining (1) new legislation and/or (2) a Governor's Executive Order giving the ICJI the responsibility for coordinating the four core mandates of the JJDP Act, thereby giving the ICJI the authority to:**
1. develop and enforce, pursuant to state statutes, standards for all secure facilities that might hold juveniles, to inspect the facilities for compliance, to cite facilities for violations of the standards, and to enforce sanctions when violations are not corrected; and
 2. review of records containing detention information with the verbal agreement that the monitors will respect the confidential nature of the information and will not knowingly record or divulge information which might identify a specific juvenile except as may be required to protect the juvenile.
- B. The ICJI Compliance Monitor will make available during all onsite inspections a copy of the document(s) which define the basis of authority for monitoring.

Attachment(s): SAMPLE LETTER OF MONITORING AUTHORITY

SAMPLE LETTER OF MONITORING AUTHORITY

Date

Dear Juvenile Holding Facility,

The state of Indiana annually accepts federal funds under the Juvenile Justice and Delinquency Prevention Act of 2002 (JJDP Act). Pursuant to I.C. 5-2-6-3, the Indiana Criminal Justice Institute is designated as the state agency to administer these federal funds. A condition for the receipt of these funds is to annually monitor compliance with the JJDP Act. The ICJI has delegated the monitoring of all agencies or facilities that may hold juvenile under public authority to the JJDP Act Compliance Monitor. The _____ has been designated the JJDP Act Compliance Monitor for the 2006 – 2007 reporting period.

The JJDP Act Compliance Monitor is authorized by ICJI to perform the following tasks:

1. inspect facilities for secure/non-secure classification and for compliance with JJDP Act standards;
2. review records containing detention information;
3. make determination as to a facility's level of compliance with the JJDP Act; and
4. report on a facility's level of compliance with the JJDP Act to the ICJI Juvenile Justice Specialist.

The JJDP Act Compliance Monitor will respect the confidential nature of the information and will not knowingly record or divulge information which might identify a specific child except as may be required to protect the child.

In addition, the JJDP Act Compliance Monitor is available to provide technical assistance for compliance with the JJDP Act, including education on the JJDP Act, community problem solving, facility review, and recommendations.

Sincerely,

Indiana Criminal Justice Institute
Youth Division Director/Juvenile Justice Specialist
One North Capitol Suite 1000
Indianapolis, IN 46204

2.5 FEDERAL AND STATE DEFINITIONS OF TERMS

Date Issued: July 2006

Review Date: January 2007; annually thereafter

Last Review: 2007

Statement of Purpose:

According to the OJJDP Guideline Manual (for Audits), In classifying facilities and identifying the types of offense behavior of the juvenile to be counted for monitoring purposes, governmental units need to operate under definitions that are compatible with those found in the Formula Grants Regulation at 28 C.F.R. 31.304. Preferably, compatible definitions will be included in the state code. Where this is not the case, monitoring agencies should adopt and follow the OJJDP definitions for monitoring.⁴⁸

Policy:

The Compliance Monitoring Plan includes definitions for compliance monitoring. Indiana will refer to its state code and administrative rules for definitions compatible with those found in Formula Grants Regulation at 28 C.F.R. 31.304. Where the definitions are not compatible, Indiana will refer to the definitions found in Formula Grants Regulation at 28 C.F.R. 31.304.

- A. Indiana currently refers to the following definitions in the Indiana Code:
1. I.C. 31-9-2-114 "Secure facility"
 2. IC 31-9-2-115 "Secure private facility"
 3. IC 31-9-2-117 "Shelter care facility"
- B. Indiana currently refers to the following definitions in the Indiana Administrative Code:
1. 210 IAC 6-2-8 "Juvenile Detention Facility" Defined.
 2. 210 IAC 6-2-12 "Secure"
 3. 465 IAC 2-9-5 "Children's Home" or "Child Caring Institution" defined
 4. 465 IAC 2-9-7 "Confinement room" defined
 5. 465 IAC 2-9-9 "Emergency Shelter" defined
 6. 465 IAC 2-9-22 "Private secure facility" defined
- C. Indiana currently refers to the following definitions in the Formula Grants Regulation at 28 C.F.R. 31.303 and 304.
1. 28 CFR 31.304(m) Adult jail.
 2. 28 CFR 31.304(n) Adult lockup.

⁴⁸ OJJDP Guideline Manual Audit of Compliance Monitoring Systems, August 2000, pg. 2.

3. 28 CFR 31.303(e)(3)(A) Collocated facilities.
4. 28 CFR 31.303(d)(1)(i) Contact.; Sight contact; Sound contact
5. 28 CFR 31.304 (g) Criminal-type offender.
6. 28 CFR 31.304(c) Facility.
7. 28 CFR 31.304(f) Juvenile offender.
8. 28 CFR 31.304(e) Juvenile who has been adjudicated as having committed an offense.
9. 28 CFR 31.304(d) Juvenile who is accused of having committed an offense.
10. 28 CFR 31.304(j) Lawful custody.
11. 28 CFR 31.304(p) Local private agency.
12. 28 CFR 31.304(i) Non-offender.
13. 28 CFR 31.304(k) Other individual accused of having committed a criminal offense.
14. 28 CFR 31.304(l) Other individual convicted of a criminal offense.
15. 28 CFR 31.304(a) Private agency.
16. 28 CFR 31.304(b) Secure.
17. 28 CFR 31.304(h) Status offender.
18. 28 CFR 31.304(o) Valid court order.

- D. The following definition is contained in the JJDP Act.
42 USCS 5603(26) Adult inmate

Procedures:

Annually, the ICJI Compliance Monitor reviews the Indiana Code and Indiana Administrative Code to assess whether there are changes in the definitions of the classification categories. The ICJI Compliance Monitor will determine whether to abide by state definitions or federal definitions.

Attachment(s): Definitions

Definitions

Indiana currently refers to the following definitions in the Indiana Code:

1. I.C. 31-9-2-114 "Secure facility"
"Secure facility" for purposes of the juvenile law, means a place of residence, other than a shelter care facility, that prohibits the departure of a child.
2. IC 31-9-2-115 "Secure private facility"
"Secure private facility", for purposes of the juvenile law, means the following:
 - (1) A facility that is licensed under IC 12-17-4 and IC 12-17.4 to operate as a secure private facility.
 - (2) A private facility that is licensed in another state to provide residential care and treatment to one (1) or more children in a secure facility other than a detention center, prison, jail, or similar correctional facility.
3. IC 31-9-2-117 "Shelter care facility"
"Shelter care facility", for purposes of the juvenile law, means a place of residence that is licensed under the laws of any state and is not locked to prevent a child's departure unless the administrator determines that locking is necessary to protect the child's health.

Indiana currently refers to the following definitions in the Indiana Administrative Code:

1. 210 IAC 6-2-8 "Juvenile Detention Facility" defined
"Juvenile detention facility" means any public or privately operated, secured center, place, institution, or part thereof, that is used for the lawful custody and treatment of adjudicated delinquents and juveniles alleged to be delinquent.
2. 210 IAC 6-2-12 "Secure" defined
"Secure" means a facility that is designed and operated to ensure that all entrances and exits are under the exclusive control of the staff, thereby no allowing a juvenile to leave the facility unsupervised or without permission
3. 465 IAC 2-9-5 "Children's Home" or "Child Caring Institution" defined
As used in this rule, "children's home" or "child caring institution" means a children's home, an orphanage, an institution, a shelter care facility, a private secure facility, or other place maintained or conducted by any group of individuals, or political subdivision engaged in:
 - (1) receiving and caring for dependent children, children in need of services, or delinquent children; or
 - (2) operating for gain a private business of boarding children who are unattended by a parent, guardian or custodian.

4. 465 IAC 2-9-7 “Confinement room” defined

As used in this rule, “confinement room” means a locked room which is used for the exclusive purpose of isolating a child in order to help the child control his or her behavior.

5. 465 IAC 2-9-9 “Emergency Shelter” defined

As used in this rule, “emergency shelter” means a short term place of residence, other than a secure facility that:

(1) is not locked to prevent a child’s departure unless the administrator determines that locking is necessary to protect the child’s health; and (2) provides twenty-four (24) hours a day temporary care for not more than sixty (60) consecutive days to an individual child six (6) years of age or older admitted on an emergency basis.

6. 465 IAC 2-9-22 “Private secure facility” defined

(a) As used in this rule, private secure facility means a locked living unit of an institution for gravely disabled children with chronic behavior that harms themselves or others. (b) Locked detention or locked isolation rooms do not constitute a private secure facility.

Indiana currently refers to the following definitions in the Formula Grants:

1. 28 CFR 31.304(m) Adult jail. A locked facility, administered by State, county or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.
2. 28 CFR 31.304(n) Adult lockup. Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.
3. 28 CFR 31.303(e)(3)(A) Collocated facilities. A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered “related” when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer), or the specialized services that are allowable under paragraph (e)(3)(i)(C)(3) of this section.

4. 28 CFR 31.303(d)(1)(i) Contact. Any physical or sustained sight or sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.
5. 28 CFR 31.304 (g) Criminal-type offender. A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
6. 28 CFR 31.304(c) Facility. A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.
7. 28 CFR 31.304(f) Juvenile offender. An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations by defined as State law, i.e., a criminal-type offender or a status offender.
8. 28 CFR 31.304(e) Juvenile who has been adjudicated as having committed an offense. A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender.
9. 28 CFR 31.304(d) Juvenile who is accused of having committed an offense. A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.
10. 28 CFR 31.304(j) Lawful custody. The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.
11. 28 CFR 31.304(p) Local private agency. For the purposes of the pass-through requirement of section 223(a)(5), a local private agency is defined as a private non-profit agency or organization that provides program services within an identifiable unit or a combination of units of general local government.
12. 28 CFR 31.304(i) Non-offender. A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

13. 28 CFR 31.304(k) Other individual accused of having committed a criminal offense. An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction.
14. 28 CFR 31.304(l) Other individual convicted of a criminal offense. An individual, adult or juvenile, who has been convicted of a criminal offense in court exercising criminal jurisdiction.
15. 28 CFR 31.304(a) Private agency. A private non-profit agency, organization or institution is: (1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; and (2) Any other agency, organization or institution which operates primarily for scientific, education, service, charitable, or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of section 501(c)(3) of the 1954 Internal Revenue Code.
16. 28 CFR 31.304(b) Secure. As used to define a detention or correctional facility this term includes residential facilities which include construction features designed to physically restrict the movements and activities of persons in custody such as 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.
17. 28 CFR 31.304(h) Status offender. A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
18. 28 CFR 31.304(o) Valid court order. The term means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.

Indiana currently refers to the following definition in the JJDP Act:

42 USCS 5603(26) Adult inmate. An adult inmate is an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense.

3.0 ORGANIZATION TOOLS FOR COMPLIANCE MONITORING SYSTEM

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

Indiana must provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to ensure that the core requirements of the JJDP Act are met and for annual reporting of the results of such monitoring to the OJJDP Administrator.⁴⁹

Policy:

- A. The ICJI Compliance Monitor will maintain a Compliance Monitoring Notebook, a Compliance Monitoring Universe Master List, a JJDP Training Dates Master List, and a Facility File on each facility monitored to assist with providing for an adequate system of compliance monitoring of the JJDP Act.
- B. The Compliance Monitoring Notebook, the Compliance Monitoring Universe Master List, and Facility Files will be located at the ICJI Compliance Monitor office.
- C. The Compliance Monitoring Notebook, the Compliance Monitoring Universe Master List, and Facility Files will be available during each OJJDP compliance monitoring audit.

Procedures:

- A. The ICJI Compliance Monitor will create a Compliance Monitoring Universe Notebook. This notebook will be organized as follows:
 - 1. Indiana Policy and Procedural Manual;
 - 2. OJJDP Guidance Manual;
 - 3. OJJDP Audit Manual;
 - 4. JJDP Act; and

⁴⁹ 42 U.S.C. § 5633(a)(14)

5. Code of Federal Regulations.
- B. The Compliance Monitoring Universe Master List will contain the following information:
1. Contact information for each facility;
 2. Facility's classification as adult/juvenile/collocated, private/public, secure/non-secure;
 3. Dates surveys sent and responses received; and
 4. Date of the last site visit for each facility.
- C. The JJDPA Training Dates Master List will include the dates of trainings conducted, counties represented and total number of people present.
- D. The ICJI Compliance Monitor will maintain a file for each individual facility, called the Facility File. The Facility Files will contain the following:
1. Correspondence with the facility;
 2. Site visit checklists and data error reports/responses;
 3. Monthly Logs of Juveniles Held (if data not submitted electronically via the web-based program);
 4. Copy of the facility layout indicating secure and non-secure areas where juveniles are held; and
 5. Copy of the facility's policies and procedures.

Attachment(s): Compliance Monitoring Universe Master List
JJDPA Training Dates Master List
Facility Summary

Monitoring Facility Master List

Facility	Contact Name	Address	Phone and Fax	E-mail	Secure/ Nonsecure	Public/ Private	Juvenile, Adult or Collocated	Dates survey sent and response received

JJDPA Training Dates

Initiative	Date	Trainer(s)	Location	Facilities in attendance	Facilities' Counties	Number of people in attendance

3.1 IDENTIFICATION OF THE MONITORING UNIVERSE

Date Issued: July 2006

Review Date: January 2007; annually thereafter

Last Review: 2007

Statement of Purpose:

As part of an adequate system of compliance monitoring, Indiana must describe its plan, procedure, and timetable for monitoring. The plan must describe, in detail, the following task, including the identification of the specific agency responsible for the task:

Identification of the monitoring universe. This refers to the identification of all facilities in the state which might hold juveniles under court jurisdiction. Every facility which has this potential, regardless of the purpose for housing juveniles, comes under the purview of the monitoring requirements. This also includes those facilities owned or operated by public and private agencies.⁵⁰

Policy:

- A. The ICJI Compliance Monitor will identify all facilities in the state that hold juveniles under court jurisdiction.
- B. The ICJI Compliance Monitor will maintain the Compliance Monitoring Universe Master List, a current listing of all facilities in Indiana that might hold juveniles under court jurisdiction.

Procedures:

- A. During the fourth period of the calendar year (October – December), the ICJI Compliance Monitor will contact the following organizations to determine a current list of facilities that hold juveniles under court jurisdiction:
 - 1. Indiana Department of Child Services
 - 2. Indiana Department of Correction
 - 3. Indiana Sheriffs' Association
 - 4. Indiana Association of Chiefs of Police
 - 5. Indiana Juvenile Detention Association
 - 6. Indiana Association of Residential Child Caring Agencies

⁵⁰ OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002, January 2007, pg. 35.

- B. During the fourth period of the calendar year (October – December), after receiving a current list of holding facilities for juveniles under court jurisdiction, the ICJI Compliance Monitor will submit the following surveys to administrators of facilities new to the JJDP Act Compliance Monitoring Universe: (See attachments following this policy.)
1. Adult Jail and Lockup Survey
 2. Residential Treatment Facility Survey
 3. Juvenile Detention Facility Survey
- C. The information collected, via the surveys, pertaining to the identification of facilities that hold juveniles under court jurisdiction will be recorded on the Compliance Monitoring Universe Master List.
- D. The ICJI Compliance Monitor will perform on-site visits to the facilities that do not return the survey.

Attachment(s): Adult Jail and Lockup Survey
Residential Treatment Facility Survey
Juvenile Detention Facility Survey

Adult Jail or Lockup Survey

1. Name, county, and address of Department:

2. Contact Person:

Name

(_____)

Phone Number

E-mail

3. Does your department have a lockup, or an area in which persons can be securely detained?

Yes _____

No _____

4. Is there ever an instance that a juvenile is **securely** detained at your facility?

Yes _____

No _____

5. Pursuant to written policy and procedure, juveniles **are never** placed in cells, locked rooms, or handcuffed to stationary objects.

True _____

False _____

6. Is there ever an instance that a juvenile is **non-securely** detained at your facility?

Yes _____

No _____

If you answered "yes" to question 6, where are they held?

7. Where are juveniles transported for secure detention?
Please list all facilities that are used.

8. Please attach a copy of your departmental policy with regard to the detention of juveniles and a copy of the facility floor plan indicating the area in which juveniles are held.

Signature/Title: _____

Date: _____

Residential Treatment Facility Survey

1. Name, address and county of Facility:

2. Licensed by DCS as a: _____

3. Contact Person:

Name

(_____) _____

Phone Number

E-mail

4. Type of youth Facility holds: (check all that apply, regardless of what portion of the facility the youth are held in)

_____ CHINS

_____ Status Delinquents (runaway, truant, curfew violation, minor in consumption or possession of alcohol, and incorrigibility)

_____ Crime-Type Delinquents

_____ Indiana Department of Education Placements

_____ Private Referrals

5. Is your facility a Psychiatric Residential Treatment Facility (PRTF)?

Yes _____ No _____

6. Is your facility locked so that residents cannot leave the facility?

Yes _____ No _____

7. Does your facility have a building, unit, wing, etc. that is locked so that the residents cannot leave the building, unit, wing, etc.?

Yes_____ No_____

8. Does your facility have a building/unit located within a larger secure perimeter (e.g. a wall or fence)?

Yes_____ No_____

9. Are residents ever physically restrained to a stationary object such as a chair or bed?

Yes_____ No_____

10. Does your facility have a locked room that is used for behavior modification purposes (i.e. a confinement room)?

Yes_____ No_____

11. Does the facility contain delayed egress devices that have a delay of more than 30 seconds?

Yes_____ No_____

12. Does the facility contain delayed egress devices where staff has the ability to override the egress and prevent residents from leaving?

Yes_____ No_____

Signature/Title:_____

Date:_____

Juvenile Detention Facility Survey

1. Name, address and county of Facility:

2. Contact Person:

Name
(_____) _____
Phone Number _____ **E-mail** _____

3. Type of youth Facility holds: (check all that apply, regardless of what portion of the facility the youth are held in)

_____ CHINS
_____ Status Delinquents (runaway, truant, curfew violation, minor in consumption or possession of alcohol, and incorrigibility)
_____ Crime-Type Delinquents
_____ Indiana Department of Education Placements
_____ Private Referrals

4. Is your facility privately owned or run by a unit of government?

Private _____ Government _____

5. Is your facility audited by the DOC as a juvenile detention facility?

Yes _____ No _____

6. Is your facility locked so that residents cannot leave the facility?

Yes _____ No _____

7. Does your facility have a building, unit, wing, etc. that is locked so that the residents cannot leave the building, unit, wing, etc.?

Yes_____ No_____

8. Does your facility have a building/unit located within a larger secure perimeter (e.g. a wall or fence)?

Yes_____ No_____

9. Are residents ever physically restrained to a stationary object such as a chair or bed?

Yes_____ No_____

10. Does your facility have a locked room that is used for behavior modification purposes (i.e. a confinement room)?

Yes_____ No_____

11. Does the facility contain delayed egress devices that have a delay of more than 30 seconds?

Yes_____ No_____

12. Does the facility contain delayed egress devices where staff has the ability to override the egress and prevent residents from leaving?

Yes_____ No_____

Signature/Title:_____

Date:_____

3.2 CLASSIFICATION OF THE MONITORING UNIVERSE

Date Issued: July 2006

Review Date: January 2007; annually thereafter

Last Review: 2007

Statement of Purpose:

As part of an adequate system of compliance monitoring, Indiana must describe its plan, procedure, and timetable for monitoring. The plan must describe, in detail, the following task, including the identification of the specific agency responsible for the task:

Classification of the monitoring universe. This is the classification of all facilities in the state to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or non-secure facility. Classification also includes determining whether a facility is public or private, residential or non-residential, and whether the population is juvenile only, adult only, or juvenile and adult.⁵¹

Policy:

- A. The ICJI Compliance Monitor will classify all facilities that hold juveniles under court jurisdiction into the following three categories:
 - 1. Public or Private;
 - 2. Juvenile facility; adult facility; collocated facility;
 - 3. Residential or non-residential; and
 - 4. Secure or Non-Secure.

- B. The ICJI Compliance Monitor will maintain a Monitoring Facility Master List that documents the four categories of classification for each juvenile holding facility.

Procedures:

The ICJI Compliance Monitor will record the information collected via the surveys submitted to juvenile holding facilities, per policy 3.1, pertaining to the classification of facilities as (1) private or public; (2) juvenile, adult, or collocated; (3) residential or non-residential; and (4) secure or non-secure on the Compliance Monitoring Universe Master List.

Attachment(s): None

⁵¹ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 35.

3.3 INSPECTION OF FACILITIES

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

As part of an adequate system of compliance monitoring, the state must describe its plan, procedure, and timetable for monitoring. The plan must describe, in detail, the following task, including the identification of the specific agency responsible for the task:

Inspection of facilities. Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. All facilities classified as secure detention or correctional facilities, jails, lockups, and other facilities must have periodic, onsite inspections to determine compliance with the core protections. The inspection must include:

1. A review of the physical accommodations to determine whether it is a secure or nonsecure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and
2. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with DSO, jail removal, and separation.⁵²

Policy:

- A. Throughout the calendar year, the ICJI Compliance Monitor will inspect facilities to ensure an accurate assessment of each facility's classification and record keeping. The inspection will include:
 1. A review of the physical accommodations to determine:
 - a. Secure/Non-secure classification (See policy 3.3.1);
 - b. Juvenile, adult, or collocated classification (See policy 3.3.2);
 - c. Private or public classification; and
 - d. Sight and sound separated compliance (if applicable).
 2. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with the DSO, jail removal, and separation core requirements.

⁵² 28 C.F.R. § 31.303(f)(1)(i)(C)

3. The provision of a Monitoring for Compliance with the JJDP Act manual.
 4. A report on each facility's compliance or noncompliance will be made available as a record of findings of the inspection.
- B. The ICJI Compliance Monitor will perform site inspections according to the following:
1. All facilities new to the JJDP Act compliance universe will receive a site inspection.
 2. All juvenile detention centers and DOC facilities will receive a site inspection each year.
 3. Annually, at least 10% of all adult jails and lockups will receive a site inspection each year; the entire adult jail and lockup universe will receive a site visit within three years.
 4. Annually, at least 10% of all residential treatment facilities will receive a site inspection each year; the entire residential treatment facility universe will receive a site visit within three years.
 5. Collocated facilities will receive a site inspection every year.

Procedures:

- A. The ICJI Compliance Monitor will contact facility administrators to schedule a date and time for a site inspection.
- B. The ICJI Compliance Monitor will perform the following tasks at each facility inspection:
 1. Review the physical accommodations and complete the following forms:
 - a. Inspection of Facilities Form
 - b. Secure/Non-Secure Checklist (See policy 3.3.1)
 - c. Collocation Checklist (if applicable) (See policy 3.3.2)
 - d. Sight and Sound Separation Checklist (if applicable)
 2. Obtain a facility layout.
 3. Obtain a copy of the facility's policies and procedures.

4. The ICJI Compliance Monitor will determine how each facility maintains its records on juveniles and will provide training and technical assistance when needed.
 5. To determine accuracy of the records, the ICJI Compliance Monitor will compare the information submitted by the facility on the Monthly Logs of Juveniles Held forms with the original data source maintained by the facility records.
 6. The ICJI Compliance Monitor will provide each facility, at the time of inspection, a copy of the Indiana Compliance with the JJDP Act manual.
 - a. The Indiana Compliance with the JJDP Act manual contains the following documents:
 - i. An overview of the JJDP Act and the four core mandates.
 - ii. A sample Monthly Log of Juveniles Held form/Quest Instruction Manual.
 - iii. State of Indiana Compliance Monitoring Timetable
 - b. The Indiana Compliance with the JJDP Act manual should be reviewed annually with the Juvenile Justice Specialist and, if needed, updated.
 7. The ICJI Compliance Monitor will make its Compliance Monitoring On-Site Summary Results available to the facility as a record of findings of the inspection.
- C. The ICJI Compliance Monitor will address issues of facilities' non-cooperation with site inspection requests with the Juvenile Justice Specialist. The ICJI Compliance Monitor will address the issue with the JJS in written form, with a copy being sent to the non-cooperating facility.
- D. The ICJI Compliance Monitor will maintain site-inspection records in the Facility File and will document activity on the Compliance Monitoring Universe Master List.

Attachment(s): Inspection of Facilities Form
Sight and Sound Separation Checklist
Compliance Monitoring On-Site Summary Results

INSPECTION OF FACILITIES FORM

FACILITY INFORMATION

On-Site Visit Date: _____

County: _____ Monitor: _____

Name of Facility:

Mailing Address:

Physical Address and Directions:

Name of Sheriff, Chief or Director:

Contact Name:

Contact Phone : _____ Contact Fax: _____

Contact E-Mail: _____

TYPES OF INDIVIDUALS HELD

- Juvenile Delinquents: Criminal types
- Juvenile Delinquents: Status offenders
- Juveniles under adult criminal court jurisdiction
- CHINS
- Private Referrals
- Adults under criminal court jurisdiction

CLASSIFICATION INFORMATION

Type of Facility:

- Juvenile. A juvenile facility is a place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies

Notes: _____

- Juvenile Detention Center
- Residential Treatment Center
- Adults under criminal court jurisdiction are sometimes held in the facility
 - Sight and Sound Separation Checklist Completed (if facility is secure)

- Adult. An adult jail is a locked facility, administered by State, county or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

An adult lockup is similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged

Notes: _____

- Adult jail
- Adult lockup
- Adult police department
- Sight and Sound Separation Checklist Completed (required if facility is secure)

- Collocated. A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered "related" when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer), or the specialized services allowed under law.

Notes: _____

- Collocated Checklist Completed

Private or Public Facility:

- Private; Notes: _____

- Public; Notes: _____

Secure or Non-Secure:

- Secure/Non-Secure Checklist Completed
 - Secure
 - Memo of understanding completed
 - Non-Secure
 - Non-jail and Non-secure certification completed

Notes: _____

RECORDS INFORMATION

- Description of how facility maintains its records (not needed if facility is non-secure)

- Facility Records contain the following information:
 - Name or ID number; DOB or age; Gender; Race/Ethnicity;
 - Date/Time of Admission; Date/Time of Release; County of Residence;
 - Admitting County; Most Serious Charge/Offense; Federal Hold;
 - Date/Time of Court Hearing; Waived; Violated court order;
 - Probation violation; Arrest charge; Direct file;
 - First court appearance; Adjudication date

- Data submitted via the web-based reporting system or on Monthly Logs of Juveniles Held compared to data maintained in the facility's records

MONITORING CHECKLIST

- Obtain Facility Layout Showing Locations for Secure and Non-Secure Holding
- Obtain copy of facility's Policies and Procedures
- Provide Indiana Compliance with the JJDP Act manual

INFORMATION

Any compliance issues, problems, concerns?

New correctional facilities being planned for this area?

SIGHT AND SOUND SEPARATION CHECKLIST

Name of Facility: _____

Date of Inspection: _____

Mailing Address:

Contact Name: _____ Phone: _____

Fax: _____ E-mail: _____

Type of Facility:

Juvenile; Describe: _____

Adult; Describe: _____

Collocated; Describe: _____

Sight and Sound Separation Directions

1. Apply the numerical codes to each of the facility areas.
2. Only Code 5 complies with the Sight and Sound Separation mandate of the JJDP Act. Juveniles should not be held in an area of the facility that does not warrant a code 5.

Use the following codes to describe the level of separation.

Code

1. Adult inmates and juveniles can have physical, visual and aural contact with each other (NO SEPARATION)
2. Adult inmates and juveniles cannot have physical contact with each other, but they can see or hear each other (PHYSICAL SEPARATION)
3. Conversation possible between adult inmates and juveniles although they cannot see each other or have physical contact with each other (SIGHT SEPARATION)
4. Adult inmates can see each other but no conversation is possible and they cannot have physical contact with each other (SOUND SEPARATION)
5. Adult inmates and juveniles within the same facility can not see each other, cannot have physical contact with each other and no conversation is possible (SIGHT AND SOUND SEPARATION)

Facility Area	Level of Separation Code	Explanation of code
Booking/Admission		
Housing		
Dining		
Recreation		
Vocation/Work		
Visiting		
Transportation		
Medical/Dental		
Segregation		
Hallways		

Does the facility utilize adult trustees for any juvenile services?
 (Ex., serving meals) Yes _____ No _____

Does the facility participate in any Shape Up or Scared Straight program?
 Yes _____ No _____
 (If so, this might change the level of separation, explore more fully with contact)

COMPLIANCE MONITORING ON-SITE SUMMARY RESULTS

Name of Agency: _____ On-Site Visit Date: _____

Agency Address:

Agency Contact Person: _____ Contact Phone: _____

Contact E-Mail Address: _____

ON-SITE SUMMARY RESULTS

Types of Individuals held:

- Juvenile Delinquents: Criminal types
- Juvenile Delinquents: Status offenders
- Juveniles under adult criminal court jurisdiction
- CHINS
- Private Referrals
- Adults under criminal court jurisdiction

Type of Facility:

- Juvenile
- Adult
- Collocated

Sight and Sound Separation Level:

- NOT APPLICABLE; Juveniles and Adults are not held in the same facility
- NO SEPARATION
- PHYSICAL SEPARATION
- SIGHT SEPARATION
- SOUND SEPARATION
- SIGHT AND SOUND SEPARATION)

Private or Public Facility:

- Private
- Public

Secure or Non-Secure:

- Secure
- Non-Secure
 - Memo of understanding completed
 - Non-jail and Non-secure certification completed

Explanation of why Facility is Deemed Secure:

Record Keeping:

- No Recommendations
- Recommendations: _____

JJDP Act Violations Addressed During Inspection

- Yes, attach violations and findings to On-Site Summary Results
- No

Additional Findings

Please direct questions or comments to my attention at 317/916-0786 (phone) or to _____@youthlawteam.org.

Name

Date

3.3.1 CLASSIFICATION OF SECURE OR NONSECURE DURING SITE VISIT

Date Issued:	July 2006
Review Date:	January 2007; annually thereafter
Last Review:	2007

Statement of Purpose:

States must determine whether a facility in which juveniles are detained or confined is secure or non-secure.⁵³ As used to define a detention or correctional facility, the term “secure” also includes residential facilities which include construction features designed to physically restrict the movements and activities of persons in custody such as 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.⁵⁴ The JJDP Act’s definition of “secure” is independent of the definitions states use in licensing facilities. Therefore, it is possible to have a juvenile in a residential treatment facility that is considered “secure” under the JJDP Act but is licensed as “non-secure” under Indiana licensing provisions.

Likewise, it is possible for a juvenile to 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 yet not be in a secure detention or confinement status according to the JJDP Act.⁵⁵ OJJDP’s *Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups*⁵⁶ states that 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 primarily 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;

⁵³ OJJDP *Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 35.

⁵⁴ 28 C.F.R. § 31.304(b)

⁵⁵ OJJDP *Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 9-10.

⁵⁶ *Federal Register* 53, no. 212 (November 2, 1988):44367.

- 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 inspection 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.
- 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 that have been approved in writing (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 that comply with the egress delay established by the authority having jurisdiction over fire codes and fire inspections. In no case should the delay exceed 30 seconds.⁵⁷

Policy:

- A. The ICJI Compliance Monitor will verify juvenile holding facilities' self-reported classification of secure or non-secure, via policy 3.1, during a site inspection in accordance with policy 3.3 by using the Secure/Non-Secure Checklist.
- B. The Secure/Non-Secure Checklist will be maintained in the Facility File.

⁵⁷ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 9-10.

Procedures:

The ICJI Compliance Monitor will verify juvenile holding facilities' self-reported classification of secure or non-secure, via policy 3.1, during a site inspection in accordance with policy 3.3 by using the Secure/Non-Secure Checklist.

Attachment(s): Secure/Non-Secure Checklist

SECURE/NONSECURE CHECKLIST

Name of Facility: _____

Address of Facility: _____

Contact Name: _____ Phone: _____

Fax: _____ E-mail: _____

County: _____

Name of person conducting inspection: _____

Date of Inspection: _____

Checklist Directions

1. Complete this checklist to determine whether a facility is secure or nonsecure according to the Juvenile Justice and Delinquency Prevention Act.
2. If a facility has more than one building on its grounds, it may be appropriate to use one checklist for each building.
3. If a statement is not applicable to a facility, explain why the statement is not applicable on the lines provided.
4. If a statement is false, explain why the statement is false on the lines provided.
5. If any of the statements are false, the facility is deemed secure.

Questions for Juvenile and Adult Facilities

1. The areas where juveniles are held/housed are not locked so that juveniles can leave the room or building. True False NA

2. The areas where juveniles are held/housed are not locked within a larger secure perimeter (e.g. a wall or fence). True False NA

3. Juveniles are not physically secured to a cuffing rail or other stationary objects. True False NA

4. The facility contains a delayed egress device that has a delay less than 30 seconds. True False NA

5. The facility contains a delayed egress device that has a staff override feature but has a written policy to prevent staff from utilizing the override feature. True False NA

Additional Questions for Adult Facilities

6. The areas where juveniles are held are not designed or intended for residential purposes. True False NA

7. The areas where juveniles are held are unlocked multipurpose areas such as a lobby, office or interrogation room. True False NA

8. Juveniles are under continuous visual supervision by a law enforcement officer or facility staff during the period of time in nonsecure custody. True False NA

9. Juveniles are in a secure area only long enough for the process of identification, investigation, processing, release to parents, or arranging transfer to a juvenile facility or court. True False NA

3.3.2 CLASSIFICATION OF COLLOCATED OR JUVENILE OR ADULT FACILITY DURING SITE VISIT

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

States must determine whether a facility in which juveniles are detained or confined is an adult facility, juvenile facility, or collocated facility.⁵⁸ A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered “related” when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer).⁵⁹

Juvenile facilities collocated with adult facilities are considered adult jails or lockups unless all four of the following criteria are met:

- The facility must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and adult inmates of the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas;
- The facility must have separate juveniles and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility that provides for a full range of separate program services. No program activities may be shared by juveniles and adult inmates. Time phasing of common use nonresidential areas permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns;
- If the state will use the same staff to serve both the adult and juvenile populations, there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates be training and certified to work with juveniles; and
- In states that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate.⁶⁰

⁵⁸ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg. 35.

⁵⁹ 28 C.F.R. § 31.303(e)(3)(A)

⁶⁰ 28 C.F.R. § 31.303 (3)(3)(i)(C)(1) through (4)

A facility adhering to the four criteria would qualify as a separate secure juvenile detention center or correctional facility for the purpose of monitoring for compliance with DSO, jail removal, and separation.⁶¹

The state monitoring unit must make the determination of collocated status via an onsite facility inspection and perform an annual review to determine if compliance with the criteria listed above is being maintained.⁶²

Policy:

- A. The ICJI Compliance Monitor will verify juvenile holding facilities' self-reported classification of adult, juvenile or collocated, via policy 3.1, during a site inspection in accordance with policy 3.3.
- B. The ICJI Compliance Monitor will identify collocated facilities using the Collocated Facilities Checklist.
- C. The Collocated Facilities Checklist will be maintained in the Facility File.

Procedures:

- A. The ICJI Compliance Monitor will verify juvenile holding facilities' self-reported classification of adult, juvenile, or collocated, via policy 3.1, during a site inspection in accordance with policy 3.3.
- B. The ICJI Compliance Monitor will verify collocated facilities using the Collocated Facilities Checklist.
- C. The ICJI Compliance Monitor will make the determination of collocated status via an onsite facility inspection and perform an annual review to determine if compliance is being maintained.

Attachment(s): Collocated Facilities Checklist

⁶¹ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 28 – 29.

⁶² *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 29.

COLLOCATED FACILITIES CHECKLIST

NAME AND ADDRESS OF FACILITY: _____

Date of On-site Inspection: _____

Name of person conducting inspection: _____

Collocated Directions

1. Fill out the Collocated Facilities Checklist.
2. Juvenile facilities collocated with adult facilities are considered adult jails or lockups unless all four of the following criteria are met:
 - The facility must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and adult inmates of the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas;
 - The facility must have separate juveniles and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility that provides for a full range of separate program services. No program activities may be shared by juveniles and adult inmates. Time phasing of common use nonresidential areas permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns;
 - If the state will use the same staff to serve both the adult and juvenile populations, there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates be training and certified to work with juveniles; and
 - In states that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate.

Collocated Definition

- Two facilities located in the same building

- Two buildings are part of a related complex of buildings located on the same grounds

Physical features and/or services the two buildings share:

- Walls
 - Fences
 - Heating system
 - Air conditioning services
 - Water services
 - Sewer services
 - Other _____
- The two facilities are not collocated per JJDP Act definition, 28 C.F.R. 31.303(e)(3)(i)(A)

Collocated Criteria

1. Sight and Sound Separation between Juveniles and Incarcerated Adults

- Architecturally
- Time-phasing
- No Sight and Sound Separation (criteria not met)

2. Separate Programs

	Time-Phased	Spatial	No Separation
<input type="checkbox"/> Recreation	_____	_____	_____
<input type="checkbox"/> Education	_____	_____	_____
<input type="checkbox"/> Counseling	_____	_____	_____
<input type="checkbox"/> Dining	_____	_____	_____
<input type="checkbox"/> Religious	_____	_____	_____

General Living Activities

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sleeping

_____	_____
-------	-------

There is an independent and comprehensive operational plan for the juvenile detention center which provides for a full range of separate program services.

If any of the programs are not separated, the criteria is not met.

3. Staff

	Shared	Separate	Not Separate
<input type="checkbox"/> Management		_____	_____
<input type="checkbox"/> Security		_____	_____
<input type="checkbox"/> Direct Care Staff		_____	_____
Specialized Services			
<input type="checkbox"/> Medical care	_____	_____	_____
<input type="checkbox"/> Food service	_____	_____	_____
<input type="checkbox"/> Laundry	_____	_____	_____
<input type="checkbox"/> Maintenance	_____	_____	_____

If any of staff are shared, they must have special training to work with juveniles.

If juvenile staff is not separate from adult staff, the criteria is not met.

4. Licensing

The facility has been licensed by the appropriate state agency to be a facility that holds juveniles under court jurisdiction.

License held: _____

If the facility is not licensed, the criteria is not met

Summary of Collocation Findings

Collocated Facility; next inspection date: _____

Not a collocated facility; state criteria not met:

Signature

Date

3.4 DATA COLLECTION

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

As part of an adequate system of compliance monitoring, the state must describe its plan, procedure, and timetable for monitoring. The plan must describe, in detail, the following task, including the identification of the specific agency responsible for the task:

Data collection. Data collection and reporting are required to determine whether facilities in the state are in compliance with the applicable requirements of DSO, jail removal, and separation. The length of the reporting period should be 12 months.⁶³

Policy:

- A. The ICJI Compliance Monitor will collect data on juvenile holding facilities that are classified as secure for a 12 month reporting period based on the calendar year (January 1 – December 31).
- B. Juvenile holding facilities can submit custody data on the “Monthly Log of Juveniles Held” or via a web-based reporting system on a weekly basis.
- C. Data submitted via the Monthly Logs of Juveniles Held (after July 2006) will be entered into the database by the ICJI Compliance Monitor.

Procedures:

- A. The ICJI Compliance Monitor will collect data on juvenile holding facilities that are classified as secure for a 12 month reporting period based on the calendar (January 1 – December 31).
- B. The ICJI Compliance Monitor will retain the paper Monthly Log of Juveniles Held (from facilities that do not use the Quest electronic program) for reporting purposes, which will become part of the individual Facility File for one year. After that year, the Monthly Logs of Juveniles Held will be maintained at the Indiana Criminal Justice Institute.

Attachment(s): None

⁶³28 C.F.R. § 31.303(f)(1)(i)(D)

3.5 DATA VERIFICATION

Date Issued: July 2006

Review Date: January 2007; annually thereafter

Last Review: 2007

Statement of Purpose:

As part of an adequate system of monitoring facilities, the state must describe its plan, procedure, and timetable for monitoring. The plan must describe, in detail, the following task, including the identification of the specific agency responsible for the task:

Data verification. If the data is self-reported by the facility or is collected and reported by an agency other than the state agency receiving federal grant funds, the plan must describe a statistically valid procedure used to verify the reported data.⁶⁴

The state must have a system in place to verify whether court orders used to hold adjudicated status offenders in juvenile detention centers comply with the Valid Court Order exception requirements. At a minimum, the state must randomly verify 10 percent of all adjudicated status offenders held securely because of violating a valid court order.⁶⁵

Policy:

- A. For each facility submitting data (either electronically or hard copy entered into database by the ICJI Compliance Monitor), a Violation Report of potential JJDP Act violations will be generated. The Violation Report will be reviewed on-site and compared to the original data source maintained by the facility.
- B. The ICJI Compliance Monitor will verify at least 10% of all adjudicated status offenders held securely because of violating a valid court order. For facilities reporting fewer than 50 total VCO's, all will be verified by the ICJI Compliance Monitor.
- C. A random sample of all data reported will be reviewed on-site and compared to the original data source maintained by the facility.

⁶⁴ 28 C.F.R. § 31.303(f)(1)(i)(D)

⁶⁵ OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002, January 2007, pg 24.

Procedures:

- A. The ICJI Compliance Monitor will review the data on-site and verify them for accuracy against the information in the facilities' files.
- B. The ICJI Compliance Monitor will verify at least 10 % (or all for a facility reporting fewer than 50 VCO's) of all adjudicated status offenders held securely because of violating a valid court order by reviewing the appropriate court and detention documentation.

Attachment(s): None

3.6 REPORTING ON THE STATUS OF COMPLIANCE WITH THE JJDP ACT

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

The Indiana Criminal Justice Institute will submit Indiana's JJDP Act annual report to the Administrator of OJJDP by June 30 of each year.⁶⁶

Policy:

- A. Narrative portions of the report will be written collaboratively by the ICJI Compliance Monitor and Juvenile Justice Specialist (JJS) during the second quarter of the calendar year (April – June).
- B. The JJS retains the primary responsibility for the report.
- C. The report will be made available to the State Advisory Group.

Procedures:

- A. Narrative portions of the report will be written collaboratively by the ICJI during the second quarter of the calendar year (April – June).
- B. The ICJI Compliance Monitor will submit a draft of the report to the JJS for review and revisions. On or before June 30 of each year, three copies of the OJJDP Annual Compliance Monitoring report will be submitted to the OJJDP Administrator.
- C. The report will be made available to the State Advisory Group.

Attachment(s): None

⁶⁶ *OJJDP Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002*, January 2007, pg 39.

3.7 TRAINING AND TECHNICAL ASSISTANCE

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose: The ICJI Compliance Monitor will develop and implement appropriate training and technical assistance on JJDP Act Compliance that will be made available to all facilities and agencies that may be required to receive, or may request, such training and technical assistance.

Policy:

- A. The ICJI Compliance Monitor will provide training and technical assistance to all facilities and agencies, as necessary, within the JJDP Act compliance monitoring universe.
- B. Priority will be given to all facilities/agencies experiencing violations.

Procedures:

- A. The ICJI Compliance Monitor will provide training and technical assistance to all facilities and agencies, as necessary, within the JJDP Act compliance monitoring universe.
- B. Training and technical assistance methods will be documented in the Facility Files and on the JJDP Act Training Dates Master List.

Attachment(s): None

4.0 GRIEVANCE PROCESS FOR JUVENILE HOLDING FACILITIES

Date Issued: July 2006
Review Date: January 2007; annually thereafter
Last Review: 2007

Statement of Purpose:

If facilities want to file a complaint against the ICJI Compliance Monitor, they must have a grievance process to do so.

Process:

A request for an OJJDP opinion should be directed in writing to the ICJI Compliance Monitor and then, if not resolved, to the Juvenile Justice Specialist.

Procedures:

1. Prior to filing a complaint, the facility should submit the complaint in writing to the ICJI Compliance Monitor. The complaint will be maintained in the Facility File.
2. If the facility does not feel as though the ICJI Compliance Monitor has adequately addressed the complaint, the facility may put its complaint in writing to the Juvenile Justice Specialist.
3. The ICJI Compliance Monitor will adhere to the decision made by the JJS.
4. If the JJS decision changes in the way compliance monitoring is performed in the State, the changes will be made in the Compliance Monitoring Policy and Procedure Manual no later than July 1 of that year.

Attachment(s): None