



OJJDP Formula Grants Program

- Juvenile Justice & Delinquency Prevention Act of 1974
 - Created the Office of Juvenile Justice & Delinquency Prevention (OJJDP)
 - Statutory Priorities:
 - Assist States and local governments to prevent and control juvenile delinquency & improve the juvenile justice system
 - Protect juveniles in the system from inappropriate placements & from harm that can occur as a result of exposure to adult criminal offenders
 - Re-authorized in 2002
 - Latest Reauthorization expected in 2009

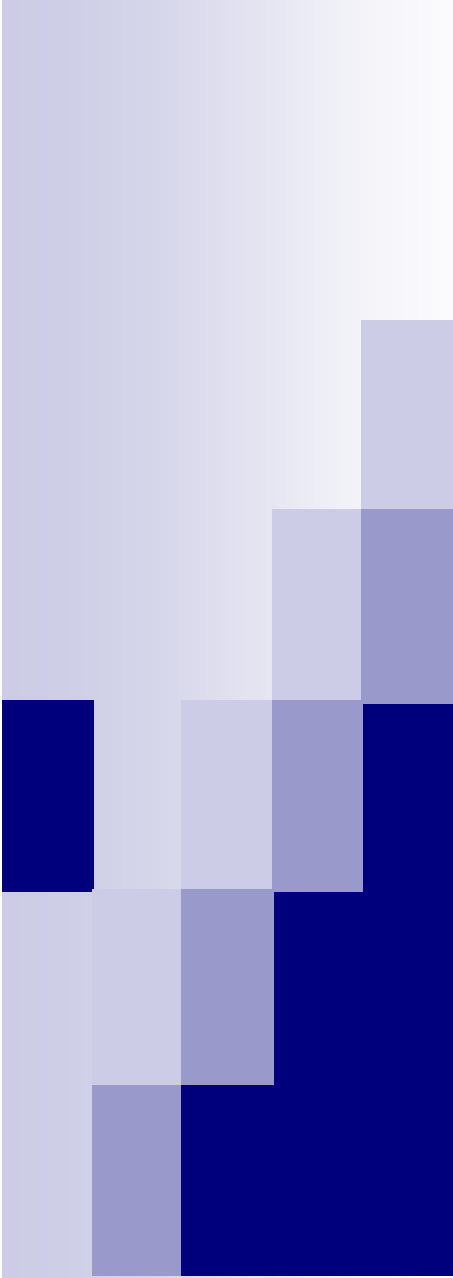


OJJDP Formula Grants Program

- Established Formula Grants Program
 - State Eligibility:
 - 1 Designated State Agency
 - 2 State Advisory Group
 - 3 Monitoring for Compliance w/Core Requirements
 - Meeting the core requirements is essential to creating a fair and consistent juvenile justice system that protects the public & the rights of juvenile offenders & CHINS


Why Does It Make Sense To Comply With The JJDP Act Core Requirements?

- 1. Federal funds are used to improve juvenile justice in the state. The formula and block grant funds are not a large sum of money in relation to the state budget, but the impact is much greater than the mere dollars received. In many instances, grant money is seed money which allows justice programs to get started and eventually become independently viable. These funds are often used to leverage other funding which thereby broadens the impact. Moreover, JJDP Act compliance may be used as an eligibility criterion for receiving other federal monies. Communities receiving Title II Formula and Title V/Prevention dollars must be in compliance with the Act. A jurisdiction might be excluded for consideration for other federal discretionary funds if it does not comply with the Act.
- 2. The JJDP Act is more than a funding statute. It creates an enforceable private right of action. States assume duties when they accept the federal funds, and when these duties are breached, a juvenile may seek a remedy pursuant to 42 U.S.C.A. Section 1983. Hendrickson v. Griggs, 672 F. Supp. 1126 (N.D. Iowa 1987); Horn by Parks v. Madison County Fiscal Court, 22 F. 3d. 653 (6th Cir. 1994).
- 3. Non-compliance will open 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. In D.B. v. Tewksbury, 545 F. Supp. 896 (D. Or. 1982) the court found the practice of jailing juveniles to be a per se constitutional violation of the 14th Amendment. Several other claims would likely be raised: Classification and safety issues; inadequate programming for juveniles; inadequate educational programming (especially special education claims); inadequate mental health care; etc.
- 4. Miscellaneous/Caveat: If judges administer detention, they would only possess qualified immunity, not absolute judicial immunity if sued in their capacity as detention administrators. Even if a judge possesses immunity from damages, suits seeking only injunctive relief can be extremely costly to defend because the prevailing party is entitled to attorney fees pursuant to section 1988.
- PUBLIC POLICY: The core requirements have been supported by the AMERICAN CORRECTIONAL ASSOCIATION, AMERICAN BAR ASSOCIATION, NATIONAL ADVISORY COMMITTEE, NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL SHERIFFS ASSOCIATION, NATIONAL CONFERENCE OF STATE LEGISLATORS, and the NATIONAL COALITION FOR JAIL REFORM.



JJDP Act Core Requirements

- **Jail Removal**
- **Sight & Sound Separation**
- **Deinstitutionalization of Status Offenders**
- **Disproportionate Minority Contact**



JJDP Act Core Requirements & Indiana Law

- **Jail Removal- Section 223(a)(13) of the JJDP Act:**

Provides that juveniles shall not be detained or confined in any jail or lockup for adults...

- **Exception:**


- Six (6) Hour Rule (IC 31-37-7-2):** Applies to all juveniles under Juvenile Court Jurisdiction accused of committing an act that would be a crime if committed by an adult.

- Limited Purposes of:**

- Identification
- Processing
- Interrogation
- Transfer to appropriate juvenile facility or release to parents

- **Exception:**

- Juveniles under Adult Criminal Court Jurisdiction on felony offenses**



JJDP Act Core Requirements & Indiana Law

Jail Removal


Section 223(a)(13) of the JJDP Act:

Provides that juveniles shall not be detained or confined in any jail or lockup for adults...

Exception: Six (6) Hour Rule (IC 31-37-7-2)

SPECIFICS OF THE SIX HOUR RULE

- The six hour clock starts the moment a juvenile is placed into a locked setting.
- Once the clock starts it CANNOT be turned off, even if the juvenile is removed briefly from the locked setting.
- *The 6 hour rule does not apply when:*
 1. The juvenile is placed in a locked squad car.
 2. The juvenile is handcuffed to him or herself.
 3. The juvenile is in a secure booking area for processing purposes and is under continuous “in-person” supervision.
 4. The juvenile is placed into an unlocked room with freedom of movement from the facility.



JJDP Act Core Requirements & Indiana Law

Jail Removal

Section 223(a)(13) of the JJDP Act:

Provides that juveniles shall not be detained or confined in any jail or lockup for adults...

Exception: Juveniles under Adult Criminal Court Jurisdiction on felony offenses

SPECIFICS

- Generally, the Juvenile Court has jurisdiction over a child under the age of 18 alleged to be a delinquent child.

- There are two ways juveniles come under Adult Criminal Court Jurisdiction:
 - DIRECT FILE OFFENSES- acts that are excluded from Juvenile Court Jurisdiction and are filed directly in Adult Criminal Court
 - WAIVERS OF JURISDICTION- acts that initiate in Juvenile Court and after evidentiary hearing, jurisdiction is waived to Adult Criminal Court



Adult Criminal Court Jurisdiction

- DIRECT FILE OFFENSES

- CHILD MUST BE 16 YEARS OF AGE AT THE TIME OF THE ALLEGED **FELONY** OFFENSE:

1. Attempted Murder
2. Murder
3. Kidnapping
4. Rape
5. Criminal Deviate Conduct
6. Robbery
7. Carjacking
8. Criminal Gang Activity
9. Criminal Gang Intimidation
10. Carrying a Handgun without a License (F)
11. Children and Firearms (F)
12. Dealing in a Sawed-off Shotgun
13. Several Drug Dealing Offenses, if there has been a prior unrelated juvenile adjudication



Adult Criminal Court Jurisdiction

- Waiver of Jurisdiction
 - Juvenile can be waived to adult court jurisdiction at age 14
 - Juvenile can be waived to adult court jurisdiction at age 10
IF THE OFFENSE IS MURDER

There are different determinations and burdens depending upon the alleged offense.

Juvenile Jurisdiction Reference Sheet


Age(s)	Offense(s)	Jurisdiction/Detention
Under 18	Infractions and Ordinance	Summons to Adult Court
Under 18	All Traffic Misdemeanors	Juvenile Court/Juvenile Detention Center
Under 18	Any and all other misdemeanor offenses or felony offense not listed below under direct file offenses.	Juvenile Court/Juvenile Detention Center

Direct File Offenses (not including Attempt or Conspiracy unless Attempted Murder): IC 31-30-1-4

16-17	Attempted Murder (IC 35-41-5-1 (a))	Adult Court/Jail
16-17	Murder (IC 35-42-1-1)	Adult Court/Jail
16-17	Kidnapping (IC 35-42-3-2)	Adult Court/Jail
16-17	Rape (IC 35-42-4-2)	Adult Court/Jail
16-17	Criminal Deviate Conduct (IC 35-42-4-2)	Adult Court/Jail
16-17	Robbery (IC 35-42-5-1)	Adult Court/Jail
	(if committed while armed with a deadly weapon or results in bodily or serious bodily injury)	
16-17	Carjacking (IC 35-42-5-2)	Adult Court/Jail
16-17	Criminal Gang Activity (IC 35-45-9-3)	Adult Court/Jail
16-17	Criminal Gang Intimidation (IC 35-45-9-4)	Adult Court/Jail
16-17	Carrying Handgun w/o License (IC 35-47-2-1) FELONY	Adult Court/Jail
16-17	Children and Firearms (IC 34-47-10) FELONY	Adult Court/Jail
16-17	Dealing in Sawed-off Shotgun (IC 35-47-5-4.1)	Adult Court/Jail
16-17	Any offense that may be joined under IC 35-34-1-9	
16-17	Dealing in cocaine, narcotic drug or methamphetamine (IC 35-48-4-1); Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2); Dealing in a schedule IV controlled substance (IC 35-48-4-3) IF (1) the individual has a prior unrelated conviction under one of these drug offenses OR (2) the individual has a prior unrelated juvenile adjudication under one of these drug offenses.	Adult Court/Jail
Under 18	Juvenile previously waived by court order on FELONY WITH NEW FELONY CHARGE	Adult Court/Jail


Status Offenses:

Under 18	Truancy	Juvenile Court/Non-secure detention
Under 18	Incorrigibility	Juvenile Court/Non-secure detention
Under 18	Illegal consumption/possession of alcohol	Juvenile Court/Non-secure detention
Under 18	Curfew	Juvenile Court/Non-secure detention
Under 18	Runaway	Juvenile Court/24 hour secure detention or non-secure detention



JJDP Act Core Requirements & Indiana Law

- **Separation of Juvenile Offenders (Sight & Sound)-** applies to juveniles subject to the 6-hour rule
- **Section 223(a)(12) of the JJDP Act:**
Provides that juveniles alleged to or found to be delinquent...shall not be detained or confined in any institution in which they have contact with adults persons incarcerated...
- **IC 31-37-7-2:**
...the child shall be restricted to an area of the facility in which the child does not have more than haphazard or incidental sight or sound contact with persons charged with, or imprisoned for, or incarcerated for crimes.



JJDP Act Core Requirements & Indiana Law


- **Separation of Juvenile Offenders (Sight & Sound)**

- **Contact is defined to include:**

Any physical or sustained sight and sound contact between juvenile offenders in secure custody and incarcerated adults, including inmate trustees

- **Exception:**

Accidental or inadvertent contact in secure areas of facility not dedicated to juvenile offenders or residential (e.g., booking area)



JJDP Act Core Requirements & Indiana Law

■ Deinstitutionalization of Status Offenders


Section 223(a)11(A)(B) of the JJDP Act provides that status offenders and nonoffenders not be detained or confined in secure detention or correctional facilities.

Secure vs. Non-Secure

“...facilities having construction features designed to physically restrict the movements and activities of persons in custody. It does not include facilities where physical restriction of movements or activity is provided solely through facility staff (i.e., staff secure).”

Secure – locked rooms and buildings, fences, or other physical structures (e.g., cuffing rings)

If a facility has these features then they are defined as a secure detention or correctional facility for the purposes of monitoring




JJDP Act Core Requirements & Indiana Law

Nonsecure Custody Requirements *Federal Regulation November 1988*

A non-secure environment, for the purposes of detention within a secured facility, is defined in terms of freedom of movement from the facility. The juvenile cannot be detained by hardware or construction fixtures designated to restrict the movement or activities of persons in custody. Non-secure custody means the juvenile is able to leave the facility at any time.

The following non-secure custody guidelines for juveniles held in law enforcement facilities were established to assist in distinguishing between secure detention and non-secure custody:

1. The area where the juvenile is placed in an unlocked, multipurpose location, such as a lobby, office, or an interview room, which is not designated, set aside, or used as a secure area;
2. The juvenile is not physically secured to a stationary object;
3. The use of the area is limited to providing non-secure custody long enough for the purposes of identification, processing, release, or transfer; and
4. Continual, visual supervision is provided by an officer or facility staff.



JJDP Act Core Requirements & Indiana Law

- **Five Status Offenses (IC 31-37-2):**
 - Runaway
 - Truancy
 - Incurrigibility
 - Curfew Violation
 - Minor Consumption/Possession/Transportation of Alcohol
- **Exceptions:**
 - 24 Hour Rule
 - IC 31-37-7-3 – 24 hour exception for Runaways only
 - Valid Court Order
 - 31-37-22 Valid Court Order
 - Repeat Runaways – 31-37-22-5
 - Repeat Truants – 31-37-22-6
- **IC 31-34-6-1 – CHINS *not* to be securely detained**

Process for Status Offender Detention in a Juvenile Detention Facility

	State Law	JJDP A
Secure detention after arrest for status offense (truancy, runaway, curfew violation, incorrigibility, and alcohol related offenses)	<i>Runaways</i> can be held in a secure juvenile detention facility for up to 24 hours, excluding weekends and legal holidays, prior to the initial court appearance and for up to 24 hours, excluding weekends and holidays, immediately following an initial court appearance. <i>No other status offenders can be securely detained.</i>	All status offenders can be held in a secure juvenile detention facility for up to 24 hours, excluding weekends and holidays, prior to an initial court appearance and for 24 hours, excluding weekends and holidays, immediately following an initial court appearance.
Adjudication and Disposition	Cannot securely detain status offenders as a dispositional alternative.	Cannot securely detain status offenders as a dispositional alternative.
Modification of Disposition for Violating Probation	The dispositional alternatives available to the court for status offenders who violate probation are the same as those available to the court for the original offense. Status offenders who violate probation cannot be securely detained.	The dispositional alternatives available to the court for status offenders who violate probation are the same as those available to the court for the original offense. Status offenders who violate probation cannot be securely detained.
Modification of Disposition for Violating a Valid Court Order (VCO)	The court can securely detain runaways who violate a VCO by committing another runaway offense and truants who violate a VCO by committing another truancy offense for 24 hours prior to the modification hearing for their second offense if, after adjudication for their first offense, they received a warning of the consequences of violating a VCO and that warning was reflected in the record. Runaway/Runaway and Truancy/Truancy offenders can be securely detained in a juvenile detention facility (for a maximum of 30 days) or the DOC (the court retains jurisdiction and must hold a placement review hearing every three months).	The court can securely detain all status offenders who violate a VCO if, after the adjudication for their first offense, they received an adequate and fair warning of the consequences of violating a VCO, after the alleged violation an appropriate public agency was promptly notified that the juvenile is in custody for violating the VCO, interviewed the juvenile within 24 hours, and submitted an assessment, within 48 hours, to the court that issued the VCO, and the court conducted a hearing to determine whether there is reasonable cause to believe that such juvenile violated the VCO and what is the appropriate placement of the juvenile pending disposition of the VCO.
*Indiana law and the JJDP A prohibit the secure detention of status offenders in adult jails or lockups for any period of time.		



Valid Court Order (VCO) & Indiana Law

When Status Offenders can be Securely Detained for Valid Court Order (VCO)


Runaway

- Child is placed in a shelter care facility or other place of residence as part of a court order for being a runaway;
- Child received a written warning of the consequences of a violation of the placement at the hearing during which the placement was ordered;
- The issuance of the warning was reflected in the records of the hearing;
- Child commits **second runaway offense**;
- Child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's placement in a shelter care facility or other place of residence; and
- Child's mental and physical condition may be endangered if not placed in a secure facility; then
- Child can be securely detained in a nonlocal secure private facility licensed under the laws of any state, a local secure private facility licensed under Indiana law, a local secure public facility (for 30 days), or the department of correction for housing in any correctional facility for children. (The juvenile court does not lose jurisdiction over these placements, including placement in DOC, and must review the placement every three months.)

IC 31-37-22-5; IC 31-37-22-7

Truant

- Child commits first truancy offense;
 - Child received a written warning of the consequences of a violation of the court's order if truant again;
 - The issuance of the warning was reflected in the records of the hearing;
 - Child commits **second truancy offense**;
 - Child is not held in a juvenile detention facility for more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, before the hearing at which it is determined that the child violated that part of the order concerning the child's school attendance; and
 - Child's mental and physical condition may be endangered if the child is not placed in a secure facility; then
 - Child can be securely detained in a nonlocal secure private facility licensed under the laws of any state, a local secure private facility licensed under Indiana law, a local secure public facility (for 30 days), or the department of correction for housing in any correctional facility for children. (The juvenile court does not lose jurisdiction over these placements, including placement in DOC, and must review the placement every three months.)
- IC 31-37-22-6; IC 31-37-22-7



JJDP Act Core Requirements & Indiana Law

State of Indiana Valid Court Order (VCO) Exception Checklist

A valid court order means a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to such order, and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States.

If a juvenile is taken into custody for violating a valid court order issued for committing a repeat runaway or repeat truant status offense, the following conditions must be met:


____ Was an appropriate agency promptly notified that such juvenile is held in custody for violating such order?

____ Was the juvenile interviewed, in person, by an appropriate PUBLIC agency representative, within 24 hours of the juvenile's placement in secure detention, excluding weekends and holidays?

____ Did the PUBLIC agency representative submit an assessment to the court, prior to the 24 hour MODIFICATION hearing, regarding the immediate needs of the juvenile and the most appropriate placement needs of the juvenile pending disposition of the violation?

____ Was the MODIFICATION hearing held within 24 hours of the juvenile's placement in secure detention, excluding weekends and holidays?

____ Was there a judicial determination that there was reasonable cause to believe that juvenile violated such order?



JJDP Act Core Requirements & Indiana Law

*State of Indiana
Valid Court Order Exception
Assessment Report*

IN THE INTEREST OF: _____ D.O.B. _____

CASE NO. _____

COMES NOW, _____

with the _____ and reports to the
Court as follows:

- The juvenile was placed in the _____
facility at _____ o'clock, on the _____ day of _____.
- The juvenile was interviewed in person at _____ o'clock, on the
_____ day of _____ by _____.

Describe the circumstances, events or behaviors relevant to this incident:

- Repeat Runaway Repeat Truant

Describe the immediate needs of this juvenile:

Describe the most appropriate placement alternatives available for this juvenile awaiting
disposition on this alleged violation:

- | | |
|--|--|
| <input type="checkbox"/> Release to parent/guardian | <input type="checkbox"/> Release to other relative |
| <input type="checkbox"/> Residential Treatment Care (non-secure) | <input type="checkbox"/> Residential Treatment Care (secure) |
| <input type="checkbox"/> Shelter Care | <input type="checkbox"/> Secure Detention |

Respectfully Submitted,

_____ Date: _____

JJDP Act Core Requirements & Indiana Law

Guide to Secure Detention Decision-Making In Indiana

Type of Offender	Juvenile Detention Facility	Adult Jail/Lock-Up
CHINS	Secure holding prohibited.	Secure holding prohibited.
Pre-adjudicated Status Offender*	Secure hold limited to 24 hours (excluding weekends and nonjudicial days) for runaways only.	Secure holding prohibited.
Pre-adjudicated Crime Delinquent Offender	Secure hold limited to 48 hours (excluding weekends and legal holidays) pending detention hearing. No restrictions on secure holding post-detention hearing.	Secure hold limited to 6 hours upon arrest for limited purposes of identification, processing, interrogation, transfer to juvenile detention facility, or release to parents. Sight and sound separation required.
Post-adjudicated Status Offender	Secure holding prohibited.	Secure holding prohibited.
Adjudicated Status Offender accused of violating Valid Court Order	Secure hold limited to 24 hours pending modification hearing for adjudicated runaway or truant where violation is repeat runaway or truancy.	Secure holding prohibited.
Adjudicated Status offender found to have violated Valid Court Order	Secure hold limited to 30 days for adjudicated runaway or truant where violation is repeat runaway or truancy. [^]	Secure holding prohibited.
Post-Adjudicated Crime Delinquent Offender	Secure hold limited to 90 days if age 16 or under. Secure hold limited to 120 days if age 17 or older.	Secure holding prohibited.
Juvenile under criminal court jurisdiction charged with or convicted of a felony	Secure holding prohibited under state law. No restrictions on holding until juvenile reaches age 18 ½ under JJDPa.	No restrictions on holding. Offender entitled to bond.

* Runaway, Truancy, Incurability, Curfew, Possession/Consumption/Transportation of Alcohol

[^] Commitment to Indiana Department of Correction is a dispositional option. Court retains jurisdiction and must review in 90 days.




The JJDPA and Residential Facilities

- JJDPA Core Mandates apply to all juveniles under the jurisdiction of the juvenile court who are in secure custody
- Secure custody includes residential facilities having construction features designed to physically restrict the movements and activities of persons in custody
- Non-secure facilities must substantiate and maintain their non-secure status in order to be exempt for the purposes of reporting for JJDPA Compliance
- Secure Mental Health Treatment Units are not exempt from reporting for JJDPA Compliance if they house juveniles under juvenile court jurisdiction




JJDPA and Residential Facilities

- JJDPA Compliance Status is a separate determination from DCS licensing requirements
- I.C. 31-34-6-1; 31-34-20-1 prevents placement of CHINS in secure facilities




Compliance Monitoring Program

- Compliance Monitoring Universe-
JJDPA applies to all facilities that hold children under the jurisdiction of the Juvenile Court
 - Facilities inspected and designated as secure or nonsecure
- Data Reporting- all secure facilities required to report data to ICJI
 - Web-based Reporting Program (effective 2006)
- Onsite Compliance Audit/Data Verification
 - Access to detention records showing dates and times of admission and release
 - Access to probation/court files with Pleadings and Orders



Determination of Compliance Status

- Violations of JJDPA Core Requirements split between sending and receiving counties
- A county having 0 violations will have status of Full Compliance
- A county having fewer than de minimis rate of allowable violations will have status of Substantial Compliance
- A county having more than de minimis rate of allowable violations will have status of Non-Compliance
- Counties having status of Full or Substantial Compliance are eligible for JABG, Title II Formula or Title V Community Prevention Funding



Determination of Compliance Status

- Non-Compliant Status- Ineligible for Title II Formula and Title V Community Prevention Funding; may risk eligibility of other federal funds administered by the Indiana Criminal Justice Institute
 - County in excess of de minimis rate of allowable violations
 - Counties that house facilities that do not report data are presumed Non-Compliant (effective July 2006)
 - Counties that place children in facilities that do not report data are presumed Non-Compliant (effective July 2006)
 - To regain eligibility for funding:
 - Submit Corrective Action Plan
 - Report data on monthly basis
 - Receive Training and Technical Assistance
 - Compliance Status evaluated throughout reporting period (effective July 2006)



Contacts:

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