



Florida Guidance Manual

for monitoring
Adult Jails, Lockups, and
Court Holding Facilities
under the
Juvenile Justice & Delinquency
Prevention Act (JJDP A) of 2002

Revised: January 2014



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Preface

This Guidance Manual has been developed by the Florida JJDPA Compliance Monitoring Project under Contract #10108 with the Florida Department of Juvenile Justice (DJJ) to acquaint Florida's law enforcement agencies with the requirements and benefits, of the federal Juvenile Justice Delinquency Prevention Act (JJDP A) with respect to the processing and holding of juveniles. As a voluntary participant in the JJDP A, Florida must maintain and monitor compliance with the core requirements of the Act. This Guidance Manual will describe those requirements and detail the allowable exceptions to them.

In return for this demonstrated and documented compliance the State annually receives federal funds that the Governor, Legislature, and DJJ may use to support a variety of local, community-based programs to promote public safety and reduce juvenile delinquency. The JJDP A funds often provide the initial revenue for both the development and implementation of pilot programs for juveniles so that the effectiveness of the programs can be assessed before instituting them on a statewide level. Failure to comply with the core requirements results in a 20% reduction of the annual allocation; non-compliance with two of the core requirements results in a 40% reduction. Of the remaining funds, 50% must be used to bring Florida back into compliance with the non-compliant core component(s). It is critical that all agencies and facilities that affect compliance diligently work towards maintaining compliance.

The Florida Department of Juvenile Justice is the designated state agency responsible for the administration of federal JJDP A and related funds and is responsible for the ongoing monitoring of all secure and nonsecure facilities in the State that hold, or potentially could hold, juveniles pursuant to public authority under Governor's Executive Order 95-376.

This Guidance Manual is based in large part on the *Guidance Manual for Monitoring Facilities under the Juvenile Justice and Delinquency Prevention Act of 2002* published in January 2007 by the federal Office of Juvenile Justice and Delinquency Prevention. The information contained in this Manual is for guidance purposes and is believed to be current and accurate; however, all final decisions regarding compliance in Florida rests solely with the Florida Department of Juvenile Justice.

For further information regarding Florida's participation in the JJDP A and information about JJDP A funding, contact:

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Juvenile Justice & Delinquency Prevention Act

The United States Congress does not have the power under the Constitution to direct how the states design and implement their respective juvenile justice systems. In order to encourage states to participate in the Act and implement its goals, Congress made it possible for the states to receive federal funding, but only if each state voluntarily accepted a number of provisions, as a condition of receiving those funds. The Act, as amended through 2007, establishes four core requirements (also referred to as “core protections”):

- Section 223(a)(11) --Deinstitutionalization of Status Offenders – 1974;
- Section 223(a)(12) --Sight and Sound Separation – 1974;
- Section 223(a)(13) --Jail Removal – 1980; and
- Section 223(a)(22) --Disproportionate Minority Confinement - 1988.

Congress established the Juvenile Justice and Delinquency Prevention Act of 1974 to: 1) provide a comprehensive, coordinated approach to the problems of juvenile delinquency; and, 2) provide resources to increase the capacity of state and local governments, and public and private agencies, to conduct effective juvenile justice and delinquency prevention and rehabilitation programs. [JJDP; Public Law 93-415, 42 U.S.C 5601]

This legislation was designed to provide federal direction, coordination, and resources to increase the effectiveness of state juvenile justice systems. The Act also promoted the development of effective programs to prevent delinquency, divert juveniles from the juvenile justice system, and provide alternatives to institutionalization. These goals were reaffirmed in the reauthorization of the Act in 2002.

A second important element in the 1974 Act was to protect juveniles in the juvenile justice system from inappropriate placements and from the harm – both physical and psychological – that can occur as a result of exposure to and contact with adult criminal offenders.

Yet another important element emphasized the need for community based treatment for juvenile offenders.

President George W. Bush signed the JJDP Act of 2002 on November 2, 2002. This renewed Act updates the 1974 legislation by incorporating many of the federal regulations that have been developed by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) over the years to define and refine the compliance monitoring process. OJJDP is currently drafting new regulations to implement these revisions.

JJDPA Core Requirements Regarding Adult Jails & Lockups

Section 223(a)(13) - Jail Removal

Section 223(a)(11) – Deinstitutionalization of Status Offenders

These requirements provide that no juvenile 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, may be detained or confined in an adult jail or lockup for adults.

Adult jails and lockups cannot hold status offenders, nonoffenders, or civil-type offenders in a secure manner at any time [223 (a)(11)]. An accused status offender may be detained in a nonsecure area of an adult jail or lockup for processing while awaiting transportation to a nonsecure shelter care facility or a juvenile detention center or while waiting release to a parent or guardian. *[Please refer to the Definitions section, starting at Page 23 for the definitions of status offenders, nonoffenders, and civil-type offenders.]*

There are exceptions to this requirement; however, before these are described, it is necessary to define the difference between a secure and nonsecure facility or area for the purposes of the JJDPA.

Secure Custody. As used to define an adult temporary detention or correctional facility, this term includes residential facilities having construction features designed to physically restrict the movements and activities of persons in custody (e.g., locked/lockable rooms and buildings, fences, or other physical structures, being physically secured to a cuffing rail or other stationary object). It does not include facilities where physical restriction of movement or activity is provided solely through facility staff (i.e., staff secure).

Jails and lockups vary greatly in design and layout. It is not always a simple task to determine whether a juvenile is being held securely. A simple test is whether the juvenile, if allowed, could exit the facility unimpeded by any security feature. The following are common custody examples that are considered to be secure detentions for JJDPA purposes:

A juvenile placed in an unlockable room within the secure perimeter of an adult jail or lockup or a juvenile detention center.

A juvenile placed in an adult jail or lockup in a nonsecure room that contains a cuffing rail, ring, locks, or other construction feature designated, set aside, or used to securely detain individuals.

A juvenile placed in a lockable room(s) or a cell that is designated, set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being placed in such a room or enclosure and/or from being physically secured to a cuffing rail or other stationary object.

A juvenile placed in a cell within an adult jail or lockup, whether or not the cell door is locked.

A juvenile placed in an interview/interrogation room that is lockable, whether or not the door is locked.

A juvenile left in a secure booking area after being photographed and fingerprinted.

A juvenile being processed in a secure booking area where a nonsecure booking area is available within a facility.

A juvenile handcuffed to a rail in an unlocked lobby area of an adult jail or lockup.

A juvenile placed in a room or within a facility that contains doors with unapproved delayed egress devices or approved delayed egress devices with a delay of more than 30 seconds. Facilities that contain devices that exceed a 30-second delay are always considered secure, even though local or state fire code may allow for a longer time delay.

Many adult facilities are equipped with controlled access systems. The most common type utilizes a plastic card with a magnetic strip, that is swiped through the locking device to gain entry or exit, or a keypad where a code is needed to gain entry or exit. A variation of this type is that the card is swiped or a code is required to exit – but the door is unlocked from the inside.

Whenever both entry and exit is controlled, any holding of a juvenile is considered to be secure, even if the juvenile is held in an unlocked room or office within the controlled access area. In the latter instance, where the exit is not controlled, i.e., anyone may simply open the door and walk out, the juvenile will be considered to be in nonsecure custody, unless he or she is otherwise securely held, e.g., cuffed to a stationary object or placed in a cell/lockable room.

There is yet a further possibility with respect to controlled access that determines whether the holding is secure or nonsecure. One door, for example, the main entrance, may be both entry and exit controlled, but if the juvenile has access to another door allowing unimpeded exit, the holding would be considered nonsecure.

Nonsecure Custody. The OJJDP *Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups* states that **all** of the following policy criteria, if satisfied, will constitute nonsecure custody of a juvenile in an adult jail or lockup facility:

1. The area where the juvenile is held is an unlockable multipurpose area, such as a lobby, or office that is not designated, set aside or used as a secure detention

- area or is not part of such an area, or, if a secure area, is used only for processing purposes; and,
2. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility; and,
 3. The use of the area is limited to providing nonsecure 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; and,
 4. In no event can the area be designed or intended to be used for residential purposes; and,
 5. 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 nonsecure custody.

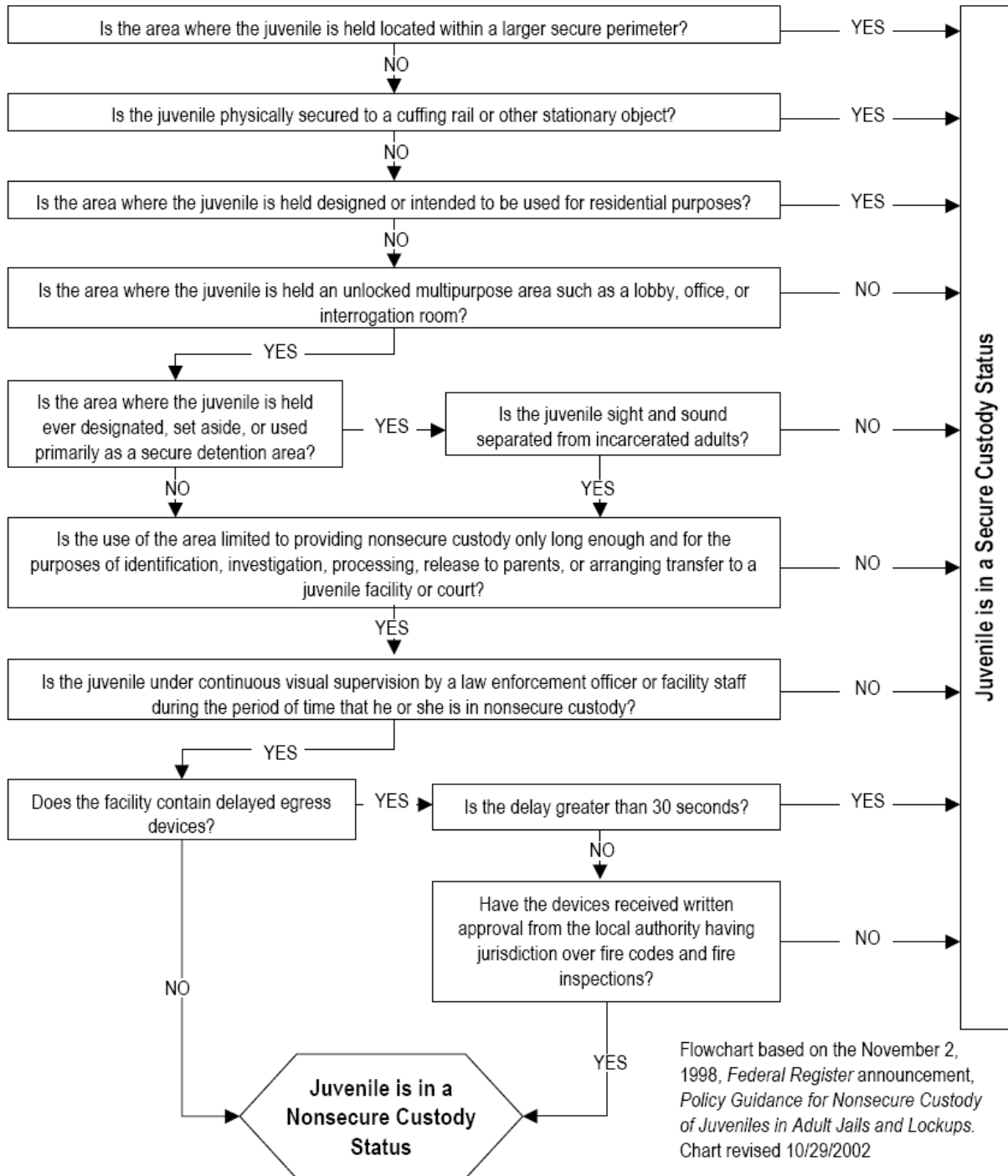
In addition, a juvenile placed in the following situations would be considered in a nonsecure status:

1. A juvenile handcuffed to a nonstationary object or to self. If the five criteria listed above are adhered to, handcuffing techniques that do not involve cuffing rails or other stationary objects are considered nonsecure.
2. A juvenile being processed through a secure booking area: Where a secure booking area is all that is available and continuous visual supervision 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.
3. Continued nonsecure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
4. A juvenile placed in a secure police car for transportation: The JJDP Act applies to secure detention facilities and secure correctional facilities; therefore, a juvenile placed in a police car for transportation would be in a nonsecure status.
5. A juvenile placed in a nonsecure runaway shelter but prevented from leaving because of staff restricting access to exits. A facility may be nonsecure (i.e., staff secure) if physical restriction of movement or activity is provided solely through facility staff.
6. A juvenile placed in a room that contains doors with delayed egress devices which have received written approval (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 which comply with the egress delay established by the authority having jurisdiction over fire codes and fire inspections. In no case shall this delay exceed 30 seconds.

In most cases on-site inspection by a compliance monitor is necessary to assist the law enforcement agency in the determination of whether the holding of juveniles in that facility is

secure or nonsecure. The chart following on the next page (and on the back cover of this Manual) may be helpful in making this determination.

Flowchart To Determine if a Juvenile Is in a Secure or Nonsecure Custody Status in an Adult Jail or Lockup



Jail Removal Exceptions

There are four exceptions to the absolute prohibition on holding juveniles in an adult jail or lockup; however, only three apply in Florida. {Note: The so-called “rural” exception does not apply in Florida.}

Six-Hour Hold Exception. OJJDP regulations allow for a 6-hour grace period that permits the secure detention in an adult jail or lockup of those juveniles accused of committing criminal-type offenses (i.e., offenses that would be a criminal offense if committed by an adult). Under this exception, the juvenile cannot have sight or sound contact with incarcerated adults during the time the juvenile is in a secure custody status in the adult jail or lockup. The 6 hours can be used in the following circumstances:

1. An **alleged** delinquent could be detained for up to 6 hours for the purposes of identification, processing, and to arrange for release to parents or transfer to juvenile court officials or juvenile shelter or detention facilities. Any holding of juveniles should be limited to the absolute minimum time necessary to complete these purposes, not to exceed 6 hours.
2. An **alleged or adjudicated** delinquent could be detained for up to 6 hours before a court appearance and up to an additional 6 hours after a court appearance, but any hold of an **adjudicated** delinquent that is not related to a court appearance is a violation of jail removal.

There are a number of conditions that must be met in order to utilize this exception:

1. The 6-hour time periods cannot be combined to extend the time frame. For example, a juvenile cannot be detained for 4 hours before and 8 hours after the court appearance.
2. Once the juvenile has been placed in a secure custody status and the 6-hour period has begun, staff cannot temporarily take the juvenile out of a secure custody status and begin the 6-hour time period again. For example, if a juvenile were placed in a secure custody status for 4 hours, then was taken to a nonsecure interview room for 1 hour, then was returned to a secure custody status for 2 hours, the total time to report for the jail removal provision is 7 hours and would be a violation of the 6-hour limit.
3. A status offender, nonoffender, or civil-type offender cannot be securely detained for any length of time in an adult jail or lockup.
4. Adjudicated delinquents cannot be held for any length of time in adult jails or lockups as a disposition or sentence.
5. A juvenile may not be transferred to a jail or lockup from a juvenile detention center for disciplinary reasons.

6. Sight and sound separation from adult offenders must be maintained at all times pursuant to the separation requirement (discussed further, below).
7. The juvenile must be under constant visual supervision.

Transfer or Waiver Exception. If **criminal felony** charges have been filed against a juvenile in a court exercising criminal jurisdiction, the juvenile can be detained in an adult jail or lockup. The jail and lockup removal requirement does not apply to those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed or to juveniles over whom a criminal court has original or concurrent jurisdiction and such court jurisdiction has been invoked through the filing of criminal felony charges. Also, once a juvenile in Florida has been adjudicated in adult (criminal) court and received adult sanctions, he or she is treated as an adult for all subsequent offenses. The holding of these juveniles in an adult facility would not be considered a violation.

Florida law mirrors these JJDP and OJJDP requirements:

985.115 Release or delivery from custody.

(3) Upon taking a child into custody, a law enforcement officer may deliver the child, for temporary custody not to exceed 6 hours, to a secure booking area of a jail or other facility intended or used for the detention of adults, for the purpose of fingerprinting or photographing the child or awaiting appropriate transport to the department or as provided in s. 985.13(2), provided no regular sight and sound contact between the child and adult inmates or trustees is permitted and the receiving facility has adequate staff to supervise and monitor the child's activities at all times.

985.25 Detention.

(1)(c) If the juvenile probation officer determines that a child who is eligible for detention based upon the results of the risk assessment instrument should be released, the juvenile probation officer shall contact the state attorney, who may authorize release. If detention is not authorized, the child may be released by the juvenile probation officer in accordance with § 985.115 and § 985.13.

Under no circumstances shall the juvenile probation officer or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

985.265 – Detention Transfer and Release; education; adult jail

5) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that the court may not order or allow a child alleged to have

committed a misdemeanor who is being transferred for criminal prosecution pursuant to either § 985.556 or § 985.557 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 15 minutes. This subsection does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

The JJDPa does not require that transferred juveniles be separated from adult inmates; however, Florida law requires that these juveniles "shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees." [§ 985.265(5)(b), F. S.] Violations of State law are not counted as violations for JJDPa purposes.

In a number of jurisdictions the adult and juvenile detention facilities are located within the same building or are part of a related complex of buildings on the same grounds. 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 beyond specialized services such as medical care, food service, laundry, maintenance, and engineering. In such an event the juvenile facility is classified as a **Collocated Facility**.

Criteria for Collocated Facilities

Each of the following four criteria must be met in order to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:

1. The facility must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and incarcerated adults in the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas; and
2. The facility must have separate juvenile 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 incarcerated adults. Time phasing of common use nonresidential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns; and

3. If the state will use the same staff to serve both the juvenile and adult population, there is in effect in the state a policy that requires individuals who work with both juveniles and adults be trained and certified to work with juveniles; and
4. 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. If there are no State standards or licensing requirements, OJJDP encourages States to establish administrative requirements that authorize the State to review the facility physical plant, staffing patterns, and programs in order to approve the collocated facility based on prevailing national juvenile detention standards.

If the juvenile facility meets these four criteria, it would qualify as a separate secure juvenile detention center or correctional facility and would follow the reporting requirements listed for juvenile facilities. In the converse, if it does not meet these criteria it would be considered an adult jail or lockup and follow the rules and exceptions for those facilities.

For those counties who elect to run a county juvenile detention facility, the agency must comply with all aspects of the new law, either certification by the Florida Department of Juvenile Justice, or through accreditation of the Florida Corrections Accreditation Commission or American Correctional Association and the Florida Model Jail Standards.

- *County run Juvenile Detention Centers:* In 2011, a new State Law was enacted providing for County Sheriffs or other County Jail Operators to run Juvenile Detention Centers. § 985.688 *Administering County and Municipal Delinquency Programs and Facilities*, states in part: "...a county is in compliance with this section if:"
 - "The county provides the full cost for pre-adjudication detention for juveniles" (985.688(11)(a)1);
 - "Each county sheriff or other county jail operator must follow the federal regulations that require sight and sound separation of juvenile inmates from adult inmates" (985.688(11)(a)4.(b))

Further information related to JJJPA requirements for Juvenile Detention Centers can be found in the JJJPA Compliance Monitoring Project publication *Florida Guidance Manual for Monitoring Juvenile Assessment Centers, Juvenile Detention Centers and Juvenile Residential Facilities under the Juvenile Justice & Delinquency Prevention Act of 2002*.

Court Holding Facilities

A court holding facility is a secure facility, other than an adult jail or lockup that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings. Court holding facilities, where they do not detain individuals overnight, (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to a court appearance, are not considered adult jails or lockups.

Court holding facilities that meet the above definition are only subject to the Sight and Sound Separation core requirement. All juveniles placed in court holding facilities must be sight and sound separated from adult offenders. Accused and adjudicated status offenders, nonoffenders and accused and adjudicated delinquents may be held in court holding facilities.

It is important to note that court holding facilities by their very nature are for use only during normal court hours and that juveniles must be brought in and removed on the same judicial day. Court holding facilities must be monitored to ensure that they are not being used for purposes other than court appearances. If they are being used for other purposes they no longer qualify as court holding and must be reclassified, usually as an adult jail or lockup.

Minor in Possession of Alcohol

In Florida, § 562.111, F.S., makes it unlawful (second-degree misdemeanor) for any person under the age of 21 to possess alcoholic beverages or to misrepresent or misstate his or her age to obtain alcoholic beverages. For the purposes of compliance reporting and monitoring, however, this offense would be considered a “status offense.” The secure holding of a juvenile in a jail or lockup for any period of time for a violation of this law would be considered a JJDP A violation.

A “status offense” is defined as conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. Truancy is a common status offense. Adults aged 18 through 20, however can be charged with underage possession under s. 562.111. OJJDP has decided to nevertheless classify underage alcohol offenses committed by juveniles to be a status offense because the age range beyond which this is **not** a criminal offense for adults is very broad (i.e., after the age of 21).

Disorderly intoxication, also a second degree misdemeanor under Florida law [s. 856.011, F.S.], applies equally to adults and juveniles. Thus, it is classified a criminal act for JJDP A purposes, and a juvenile taken into custody for this offense would be classified as an alleged delinquent.

Youth Handgun Safety Act Exception

The Youth Handgun Safety Act (18 U.S.C. 922(x)) prohibits possession of a handgun by a minor under the age of 18. There are exceptions to this act such as using a handgun in a gun safety course or hunting under the supervision of an adult. Because the Youth Handgun

Safety Act applies only to juvenile offenders, 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 United States Code, Title 18, Section 922(x), or a similar State law, can be placed in secure detention or secure correctional facilities without violating the JJDP Act. In Florida, that similar law would be s. 790.22 [Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited].

Common Violations in Florida

The most common violations in Florida are juveniles held beyond six hours. Reasons given for these violations included:

1. Parent or responsible adult did not arrive within 6 hours;
2. Investigative purposes;
3. DJJ was late in providing transportation or determination of placement; and
4. No jail staff available to transport juvenile.

The exact underlying cause for these violations differs from jurisdiction to jurisdiction. Please contact the Project, if you wish technical assistance to reduce or eliminate these violations.

Section 223(a)(12) - Sight and Sound Separation

In general, this section provides that juveniles alleged to be or found to be delinquent, as well as status offenders and nonoffenders, shall not be detained or confined in any institution in which they have contact (other than brief and inadvertent or accidental) with adult persons (including trustees) incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

This section is commonly referred to as the “separation” requirement; however, revisions to the federal regulations implementing this section (December 1996) have clarified the parameters of the requirement. Sight contact is defined as clear visual contact between incarcerated adults who are in close proximity to juveniles being detained. Sound contact is defined as direct oral communication between the adult and juvenile detainees.

Sight or sound contact that is both brief and inadvertent or accidental must be reported as a violation only if it occurs in secure areas of the facility that are dedicated to use by juvenile offenders, including any residential area.

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 incarcerated adults in secure nonresidential areas of the facility do not count as violations.

An exception is provided with respect to the booking process (i.e., photographing and fingerprinting). A juvenile may be brought to a secure booking area where incarcerated adults may be present without incurring a violation, if all of the following procedures are followed:

1. Facility staff provide continuous visual supervision throughout the booking process; and,
2. The juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules); and,
3. Once the booking process has been completed, the juvenile must be separated immediately from incarcerated adults.

As discussed above, juveniles transferred to the adult criminal system for felony offenses do not come within the purview of the JJDP. As a result, separation for JJDP purposes is not required; however, Florida law requires such separation [see s. 985.265(5)(b), Fl. Stats.].

Jail Tours/"Scared Straight" (see page 26 for additional information)

In accordance with current OJJDP policy and proposed regulation, the state must assure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section of an adult jail, lockup, or correctional facility as a disposition of an offense or as a means of modifying their behavior (e.g., Shock Incarceration, Scared Straight, Jail tours).

The key to understanding how this prohibition is monitored are the terms, "under public authority" and "secure setting or secure section." If the juvenile is court ordered to participate in a jail program or activity as part of a dispositional order or diversion program, it is considered "coercive," and therefore a violation if the program or activity takes place within the secure perimeter of the facility. If the program or activity occurs outside of the secure perimeter of the facility, that is, in a nonsecure area where unimpeded access to the street is possible, there is no prohibition on contact with adult inmates and this would not be considered a violation.

Section 223(a)(22)-Disproportionate Minority Confinement

While 32 percent of the Nation's population age 12 to 17 is minority, 68 percent of the confined juvenile population is composed of minority youth. In 1988, Congress took note of this problem by focusing State attention on the phenomenon of disproportionate minority confinement in the juvenile justice system. In 1992, Congress required States to address disproportionate minority confinement as a condition for receiving 25 percent of the State's Formula Grants program allocation, making it the fourth and final core protection of the JJDP Act.

This protection requires States to determine if minority juveniles are disproportionately confined in secure detention and correctional facilities and, if so, to address any features of

their juvenile justice systems that may account for the disproportionate confinement of minority juveniles. This core requirement neither requires, nor establishes, numerical standards or quotas in order for a State to achieve or maintain compliance. Rather, it requires States to identify whether minority juveniles are disproportionately detained or confined in secure facilities, provide a complete assessment of why disproportionate minority confinement exists, and provide an intervention plan that seeks to reduce the disproportionate confinement of minority juveniles in secure facilities.

In 2002 Congress broadened this requirement to apply to the state's entire juvenile justice system, not solely confinement.

To gather data for the disproportionate minority confinement requirement, the State may request the race and/or ethnicity of each juvenile offender brought to each facility.

Summary of JJDP Act: Adult Jails and Lockups

<i>Offender Type</i>	<i>Adult Jail and Lockup</i>
Accused juvenile status offender, nonoffenders, civil-type juvenile offender or alien juvenile	Secure holding prohibited.
Adjudicated juvenile status offender	Secure holding prohibited.
Status offender accused of violating a valid court order	Secure holding prohibited.
Status offender adjudicated for violating a valid court order	Secure holding prohibited.
Accused juvenile delinquent	Secure hold limited to up to 6 hours for identification, processing, release to parents, or transfer to a juvenile facility; or 6 hours prior to and 6 hours after a court appearance. Juvenile must be sight and sound separated from adults.
Adjudicated juvenile delinquent	Secure hold limited to up to 6 hours for identification, processing, release to parents, or transfer to a juvenile facility; or 6 hours prior to and 6 hours after a court appearance. Juvenile must be sight and sound separated from adults.
Juvenile transferred to criminal court and charged with a misdemeanor	Secure hold limited to 6 hours prior to and 6 hours after a court appearance. Separation not required; however Florida state law requires separation.
Juveniles transferred to a criminal court and convicted of a misdemeanor	Secure holding prohibited.
Juveniles transferred to criminal court and charged with or convicted of a felony	No restrictions on holding; however Florida state law requires separation.
Adult accused of or convicted of a crime	No restrictions on holding.

Monitoring for Compliance: Adult Jails & Lockups

Monitoring Process

In order for states to receive JJDPA and related funding, they must be in compliance with the core requirements of the JJDP Act. Each state annually prepares and submits to the OJJDP a Monitoring Report on these requirements. The Report is based on data the state collects from both juvenile and adult facilities. Data collection includes self-reporting to state agencies, onsite data collection, and verification by a state agency (or its contacted agent), or a combination of these methods. All state agencies administering JJDP Act funds are required to verify data that are self-reported by facilities or received from other state agencies. [Section 223(a)15]

In Florida the Department of Juvenile Justice has been designated by the Governor as the reporting agency. The primary responsibility lies with the DJJ Office of Juvenile Justice and Delinquency Prevention in the Juvenile Justice Prevention & Victim Services Division of the department. DJJ contracts with G4S Youth Services, LLC to collect data from local facilities and conduct compliance monitoring activities.

The JJDP Act, as amended in 2002, stipulates that if a state fails to comply with one or more of the core requirements, the State's allocation shall be reduced by not less than 20% for each such requirement, and shall agree to expend 50% of the amount allocated to the State for that fiscal year to achieve compliance with any of the requirements in noncompliance.

The State, i.e., FDJJ, is responsible for monitoring for compliance with the JJDPA. There are four major tasks to be completed:

1. Identification of the monitoring universe: This refers to the identification of all facilities in the State that might hold juveniles pursuant to public authority. Every facility that 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.
2. 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 nonsecure facility.
3. Inspection of facilities: Inspection of facilities is necessary to ensure an accurate assessment of each facility classification and record keeping. All facilities classified as secure detention or correctional facilities, jails, lockups, and other facilities must have periodic, on-site inspections to determine compliance with the core protections. The inspection must include:
 - a. 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,

- b. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with DSO, jail removal, and separation.
4. Data collection and data verification: 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, but in no case less than 6 months. If reporting 6 months of data, the data must be projected for a full year in a statistically valid manner. 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.

In Florida most monitoring activities involve county jails and correctional facilities, municipal lockups, juvenile detention centers and assessment centers, and juvenile residential commitment facilities. These activities include monthly/annual reporting by the facilities, on-site compliance monitoring and data verification visits conducted by the Florida JJDP Compliance Monitoring Project staff, and the collection and analysis of compliance-related data to be included in the State's annual report to OJJDP.

Adult Jail and Lockup Reporting Requirements

States must comply and report compliance monitoring data annually to the Administrator of OJJDP. Section 223(a)(14) requires that State have an adequate system of monitoring for compliance with the core protections. As part of this system, facilities must collect data on juveniles held and report the data to the state.

To demonstrate compliance with the JJDP Act, all secure adult jails and lockups must report the following:

- * Dates covered by the reporting period, as defined by the state monitoring agency.
- * Whether the facility held any juveniles in a secure custody status during the reporting period.

If no juveniles were held, the report should reflect this by checking the box at the top of the form stating no juveniles were held and then the remaining reporting items do not apply for the reporting period.

The monthly reporting data includes:

1. Agency Name
2. Facility/Substation Name
3. Month/Year
4. Case or Arrest Number
5. Date of birth
6. Race
7. Sex
8. Date and time of admit into secure custody
9. Date and time of release from secure custody

10. Offender type
11. Most serious charge (If held on a Pick-up Order, Violation of Probation, Warrant, TICO, etc., must include the underlying charge which created the order)
12. If youth was an illegal alien
13. If youth was held on a gun charge
14. If youth is an out-of-state runaway
15. If youth was held secure
16. If youth was sight/sound separated from adult offenders
17. For adult jails only – if youth was direct filed, transferred or waived into the adult system
18. Name and phone number of person completing the form

These reports are due monthly – by the 20th day of the following month.

Monthly Reporting Exception for Jails or Lockups

There are adult facilities that by their design are entirely nonsecure or which do not process juveniles in any fashion. Rather than require these facilities to monthly report, DJJ has approved a monthly reporting exemption procedure. Any facility administrator may request exemption, as follows:

1. A request for exemption must be made by the Chief Executive on agency letterhead and must include the appropriate form(s) found at the end of this manual. The request should be sent to any of the following:

Florida-JJDPA Compliance Monitoring Project
 PO Box 4068
 Deerfield Beach, FL 33442-4068

Fax: 954.718.1774 or E-Mail: bobbi.pohlman@us.g4s.com

2. Project staff will review the last site visit report and if necessary contact the facility administrator to schedule a site visit to determine whether the facility or department offices are secure or nonsecure with respect to the holding of juveniles.
3. Project staff will discuss their on-site findings with the facility/department's representative, including any recommendations Project staff intend to make to DJJ; however, no final decision will be rendered at that time.
4. The Project Director will meet with the Project staff that conducted the site visit and make a determination of whether the facility or department offices are secure or nonsecure.
5. DJJ will make the final determination and communicate it directly to the person who made the request (with a copy to the Project Coordinator). If DJJ determines that the facility or department is exempt from reporting, the letter will also contain

a requirement that the facility or department is responsible for self-reporting to DJJ any substantive changes to their physical plant or procedures that may effect their exempt status.

6. Every facility or department determined by DJJ to be exempt from reporting will be site-visited once every three years to re-certify DJJ's determination. A renewed request for determination will not be required.

Site Visits

States are annually required to visit a minimum of 30% of all of the facilities in each category in the State's monitoring universe to verify compliance with the JJDP Act. Florida JJDP Compliance Monitoring Project staff makes every effort to provide at least 20 days advance notice to the Administrators of facilities that are scheduled to be visited.

The primary purposes of the site visit include the following:

1. Review the physical design and accommodations of the facility to determine whether it is a secure or nonsecure facility, or in the alternative, which portions of the facility may be secure or nonsecure.
2. Determine the level of sight and sound separation between juvenile and adults.
3. Review and discuss any facility policies and procedures or post orders that may be relevant to compliance.
4. Review the record keeping and reporting systems to determine whether sufficient data relating to compliance are maintained and properly reported.
5. Provide any technical assistance or information requested by the facility.

Technical Assistance

The Florida JJDP Compliance Monitoring Office and Department of Juvenile Justice are available at your request for additional technical assistance. This includes, but is not limited to: materials, review of policy & procedure, conference calls, on-site meetings and staff training. Please contact Bobbi Pohlman-Rodgers at 954.818.5131 for further information.

Definitions

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 (42 U.S.C. 5603 Sec 103 (26)).

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 1 year (28 CFR 31.304(m)).

Adult lockup. Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature that does not hold persons after they have been formally charged (28 CFR 31.304(n)).

Civil-type juvenile offender. A juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include noncriminal traffic violations and noncriminal fish and game violations.

Collocated facilities. Collocated facilities are facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds. (42 U.S.C. 5603 Sec 103 (28)).

Contact (DMC). See Disproportionate Minority Contact.

Contact (sight and sound). Any physical or sustained sight and 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 (28 CFR 31.303(d)).

Criminal-type juvenile offender. A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 31.304(g)).

Delayed egress device. A device that precludes the use of exits for a predetermined period of time.

Disproportionate Minority Contact (DMC). As amended by the JJDP Act of 2002, the concept of disproportionate minority confinement has been broadened to address the disproportionate numbers of minority youth who come into contact with the juvenile justice system at any point. The 2002 Act requires states to “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 the

minority groups, who come into contact with the juvenile justice system.” (42 U.S.C. 5633 Sec. 223(a)(22))

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 (28 CFR 31.304(c)).

Juvenile offender. An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law, i.e., a criminal-type offender or a status offender (28 CFR 31.304(f)).

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 (28 CFR 31.304(d)).

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 (28 CFR 31.304(e)).

Lawful custody. The exercise of care, supervision, and control over a juvenile offender or nonoffender pursuant to the provisions of the law or of a judicial order or decree (28 CFR 31.304(j)).

Nonoffender. 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 (28 CFR 31.304(i)). These cases are referred to by many names including Children in Need of Services (CHINS), Children in Protective Services (CHIPS), and Families in Need of Services (FINS). These include: Child abuse & neglect, immigration violations (aliens with no delinquent charge), danger to self or others (mental health) and abandonment.

Nonsecure custody. A juvenile may 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 not be in a secure detention or confinement status.

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 (28 U.S.C. 31.304(k)).

Other individual convicted of a criminal offense. An individual, adult or juvenile, who has been convicted of a criminal offense by a court exercising criminal jurisdiction (28 U.S.C. 31.304(l)).

Related complex of buildings. Related complex of buildings means 2 or more buildings that share physical features such as walls and fences, or services beyond mechanical services

(heating, air conditioning, water and sewer); or the specialized services such as medical care, food service, laundry, maintenance, engineering services, etc. (42 U.S.C. 5603 Sec 103 (28)).

Secure custody. As used to define a detention or correctional facility, this term includes residential facilities that 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 (28 CFR 31.304(b)).

Secure juvenile detention center or correctional facility. A secure juvenile detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders. Many states use the term “training school” for juvenile correctional facilities.

Staff secure facility. A staff secure facility may be defined as a residential facility (1) which does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein; (2) which may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

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 (28 CFR 31.304(h)). The following are examples of status offenses:

- ◇ Truancy
- ◇ Ungovernable/incorrigible
- ◇ Violations of curfew
- ◇ Runaway
- ◇ Underage possession and/or consumption of tobacco products
- ◇ Underage alcohol offenses. These offenses are considered status offenses, even though state or local law may consider them delinquent offenses.

Juvenile Justice and Delinquency Prevention Act of 2002 Scared Straight/Prison Preview Programs and JJDP Act Compliance

In Florida, the Florida Department of Juvenile Justice is the designated State agency responsible to monitor for compliance with the four core requirements of the federal Juvenile Justice and Delinquency Prevention Act of 2002 (previously the Juvenile Justice and Delinquency Prevention Act of 1974, as amended). These four requirements are Deinstitutionalization of Status Offenders, Separation of Juveniles from Adult Offenders, Removal of Juveniles from Adult Jails and Lockups, and Reduction of Disproportionate Minority Confinement.

In 2002, the Office of Juvenile Justice and Delinquency Prevention in Washington informed all states that "Scared Straight" programs (or similar programs) **may** violate the Separation Requirement of the **JJDP Act**. The Act requires that juvenile offenders (accused or adjudicated) and non-offenders (juveniles in the system due to abuse, neglect, or mental health needs) not be detained or confined in any institution in which they have sight or sound contact with adult offenders. "Adult offenders" includes those who are incarcerated because they have been convicted of a crime and those awaiting trial on criminal charges.

In order for a situation to be out of compliance, all of the following must be true:

- **The juvenile is participating in the program under public authority** (e.g., if the juvenile is detained or confined in the institution under some form of public order such as a probation requirement, detained by a police officer, or held securely as part of committing an offense)
- **The facility in which the juvenile meets with adult offenders is a physically secure facility** ("secure" includes a juvenile being cuffed to a stationary object or being in a locked room that cannot be unlocked by the juvenile from the inside)
- **The juvenile has sight or sound contact with adult offenders.**

Instances that are not violations:

1. A program that brings an incarcerated adult offender to a community center or church to speak to juvenile offenders would not be a violation of the separation requirement because the juveniles presumably would not be detained or confined securely in the community center or church.
2. A juvenile visiting his parent in an adult prison would be confined in an institution (the prison) in which he/she has contact with an adult offender (the parent), but would not be there under a public order, so separation would not apply.
3. A juvenile touring an adult jail as part of a high school journalism class would not be there under a public order; therefore, separation would not apply.
4. In the case of a juvenile whose parent decides to arrange a jail or prison tour for their child, separation would not apply unless the juvenile has been instructed (either verbally or in writing) to participate by the courts or a public official.

Instances that would be violations:

1. A juvenile offender who is placed in a juvenile detention center or youth development center that participates in a jail/prison visit would be counted as a violation because the juvenile is participating as part of their public order which placed them in the juvenile facility.
2. A juvenile offender who is required to visit incarcerated adults as part of the juvenile's probation agreement would be in violation because he/she would be visiting under the public order of their probation agreement.
3. A juvenile who is instructed to participate in a prison/jail tour as a condition of dismissing (or not filing) charges would be counted as a violation because the juvenile would be under public authority to participate as a condition of dismissing charges.
4. If adult offenders who are currently incarcerated are brought to a juvenile detention center, this is a violation of the separation requirement.

Sources: Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice

Florida JJDPa Compliance Monitoring Project

The Florida JJDPa Compliance Monitoring Project conducts the State's JJDPa compliance monitoring under Contract #10108 between the Florida Department of Juvenile Justice and G4S Youth Services, LLC.

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