



# **JUVENILE JUSTICE & DELINQUENCY PREVENTION COMPLIANCE MONITORING GUIDE FOR JUVENILE FACILITIES**

A Guide to the Juvenile Justice and  
Delinquency Prevention Act of 2002

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2017



**ROBERT BENTLEY**  
GOVERNOR

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STATE OF ALABAMA

MEMORANDUM

TO: Sheriffs and Chiefs  
Department of Youth Services  
Detention Directors  
Trooper Post Commanders

FROM: William M. Babington, Division Chief  
ADECA LETS Division

DATE: March 8, 2017

SUBJECT: Compliance Monitoring

A handwritten signature in blue ink, appearing to be "WMB", is written over the "FROM:" line of the memorandum.

The Alabama Department of Economic and Community Affairs (ADECA), Law Enforcement and Traffic Safety (LETS) Division is responsible for ensuring Alabama's compliance with the four Core Requirements of the Juvenile Justice and Delinquency Prevention Act (JJDP) related to the secure confinement of juveniles. These requirements include 1) Deinstitutionalization of Status Offenders; 2) Sight and Sound Separation; and 3) Jail Removal.

To comply with these requirements, information must be collected from all facilities in the state that have the potential to securely hold juveniles pursuant to public authority. These include all juvenile detention, correction and collocated facilities; and adult jails, lockups and court holding facilities.

To assist you with submitting this data, separate Secure Custody Reports have been developed for juvenile facilities and adult facilities. For electronic versions of these reports go to <http://adeca.alabama.gov/Divisions/lets/Pages/JuvenileJustice.aspx>.

**Action Needed:**

- Please return the quarterly report recording all juveniles held securely, within 15 days after the end of the quarter.
- Email the report to the secure email server at [juvenilemonitoring@alacop.gov](mailto:juvenilemonitoring@alacop.gov) or fax to your Compliance Monitor. (Be aware that a fax WILL NOT be as secure as the email).
- Discard older forms and use the newer versions provided on the website. If you need hard copies of the form, please contact the Compliance Monitor for your facility.

The ADECA/LETS Division has contracted with Mike Rollins of *RMR Consultation and Compliance, LLC*, and Cynthiather (C.L.) May of *May Law Group, LLC* for monitoring services.

**Compliance Monitor Contacts:**

Adult Facilities: Mike Rollins – Phone: 256-454-2378; Fax: 256-782-2298  
Juvenile Facilities: Cynthiather (C.L.) May – Phone/Fax: 205-208-8877

Thank you.

WMB:KC

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## **INTRODUCTION and BACKGROUND**

**of the**

## **JUVENILE JUSTICE and DELINQUENCY PREVENTION ACT**

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 and of the United States Department of Justice (USDOJ), Office of Justice Programs (OJP) Office of Juvenile Justice and Delinquency Prevention (OJJDP) were simple: to assist state and local governments, prevent and control juvenile delinquency, and improve the juvenile justice system. These goals were reaffirmed in the reauthorization of the JJDP Act of 2002. A second important element in the 1974 JJDP 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 adult criminal offenders. Yet another important element of the JJDP Act emphasized the need for community-based treatment for juvenile offenders. In passing the JJDP Act, Congress recognized that keeping children in the community is critical to their successful treatment.

The JJDP Act, through its 2002 reauthorization, establishes four core protections with which participating states and territories must comply to receive grants under the JJDP Act:

- Deinstitutionalization of status offenders (DSO),
- Removal of juveniles from adult jails and lockups (jail removal),
- Sight and sound separation of juveniles and adults in secure institutions (separation), and
- Reduction of disproportionate minority contact (DMC), where it exists.

Meeting the core protections is essential to creating a fair and consistent juvenile justice system that advances an important goal of the JJDP Act: to increase the effectiveness of juvenile delinquency prevention and control.

### **Deinstitutionalization of Status Offenders (DSO)**

The DSO provision was included in the original JJDP Act. As enacted in 1974, the JJDP Act required states to “provide within two years... that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult (i.e., status offenders), shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities.”

In 1980, Congress specified that status offenders and non-offenders must be removed from “secure” juvenile detention and correctional facilities. Congress also added a new jail and lockup removal requirement, which prohibits juveniles, including alleged and adjudicated delinquents, status offenders and non-offenders, from being detained in adult jails and adult lockups. Congress further amended the JJDP Act that year to allow states to detain or confine status offenders in secure juvenile facilities for the violation of a valid court order (VCO).

As amended by the JJDP Act of 2002, the DSO requirement currently reads as follows: “...juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult – excluding juveniles who are charged with or who have committed a violation of the Youth Handgun Safety Act<sup>1</sup> or of a similar state law; juveniles who are charged with or who have committed a violation of a valid court order; and juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the state – shall not be placed in secure detention or

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<sup>1</sup> United States Code, Title 18, Section 922(x)

correctional facilities.” In addition, the JJDP Act of 2002 states that ”juveniles who are not charged with any offense and who are aliens or alleged to be dependent, neglected or abused shall not be placed in secure detention or correctional facilities.”

The DSO core requirement reflects the following principles:

- Holding status offenders and non-offenders in secure confinement, although expedient, is an inappropriate strategy for handling juveniles who have not engaged in any criminal behavior.
- Historically, status offenders, when handled as delinquents, have been placed in environments that lead to physical and emotional harm.
- The punishment of status offenders, often abused and neglected children, simply represents a continuation of the cycle of mistreatment.

The JJDP Act does not ignore the problems of status offenders. Instead, the JJDP Act has supplied federal funds to the states which meet the core requirements to develop a comprehensive continuum of care. The JJDP Act encourages the creation and implementation of community-based treatment, diversion, and delinquency prevention programs. The JJDP Act emphasizes the importance of these programs as appropriate, and cost effective, alternatives to secure confinement.

In reviewing several state case studies on status offenders, the following was reported: (1) the vast majority of adjudicated status offenders have been removed from traditional institutional facilities; (2) there has been a decline in the use of preadjudicatory detention for youth who have been charged with status offenses; (3) fewer youth who are labeled as status offenders are entering the juvenile justice system; and (4) for those status offenders who are diverted to some other service system, the predominant form of out-of-home care reportedly are group homes or foster care arrangements.

Data from Kobrin and Klein’s evaluation<sup>2</sup> of the national deinstitutionalization programs showed that most status offenders do not become delinquent. There was also no evidence that locking up status offenders, even when done with the intention of providing treatment, is more effective than community based programs.

### **Sight and Sound Separation of Juveniles from Adult Offenders (Separation)**

Since the inception of the juvenile justice system, the practice of incarcerating juveniles with adult offenders has been criticized. The placement of juveniles in institutions where they are mixed with adult inmates is emotionally and physically traumatic, resulting in further victimization. Moreover, commingling juveniles with adult offenders provides an education in crime and undercuts the intent of a separate juvenile justice system designed to rehabilitate and treat juvenile offenders.

In one of the original provisions of the JJDP Act, Congress sought to provide sight and sound separation between adult inmates and juveniles in institutional settings such as jails, lockups, prisons, and other secure facilities. The JJDP Act of 2002 provides that juveniles alleged to be or found to be delinquent, as well as status offenders and non-offenders, “will not be detained or confined in any institution in which they have contact with adult inmates.”

### **Removal of Juveniles from Adult Jails and Lockups (Jail Removal)**

Although many of the juveniles taken into police custody and referred to the juvenile court can be released to parental custody to await court action, juveniles who have committed serious crimes and are a safety risk to the community may be removed from their homes and placed in secure facilities pending court hearings. Prior to the passage of the jail and lockup removal provision in the JJDP Act, this routinely resulted in placing juveniles in adult jails or lockups in danger of physical or emotional harm from adult prisoners. Research shows that young people held in adult facilities are sexually

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<sup>2</sup> *Community Treatment of Juvenile Offenders: The DSO Experiments*; Kobrin and Klein; Beverly Hills, Sage 1983.

assaulted five times more often than youth in juvenile facilities, assaulted by staff twice as often, and assaulted with a weapon 50 percent more often.<sup>3</sup>

In an effort to protect juveniles in custody and to meet the sight and sound separation core requirement of the 1974 JJDP Act, jail officials sometimes placed juveniles in solitary confinement. This practice aggravated the psychological effects of jailing and, in some cases, lead to suicide. In fact, juveniles in jails are found to commit suicide eight times more often than those in juvenile detention facilities.<sup>4</sup> Moreover, young people in adult facilities were being deprived of educational and other services provided in juvenile facilities.

For these reasons, Congress amended the JJDP Act in 1980 to include the jail and lockup removal requirement, which states that “no juvenile shall be detained or confined in any jail or lockup for adults,” a requirement reaffirmed by the JJDP Act of 2002.

The JJDP Act of 2002 provides the following exception: “juveniles who are accused of non-status offenses who are detained in such jail or lockup for a period not to exceed 6 hours for processing or release, while awaiting transfer to a juvenile facility, or in which period such juveniles make a court appearance, and only if such juveniles do not have contact with adult inmates.”

The National Council on Crime and Delinquency, the Coalition for Juvenile Justice, the National Sheriff’s Association, the Institute for Judicial Administration, the National Advisory Commission on Law Enforcement, and essentially every national organization representing law enforcement and the judicial system, recommends or mandates standards that forbid the jailing of juveniles with adults.

The intent of jail removal is not to release juveniles who, because of their offenses and their history, need to be securely detained, but to promote the appropriate secure confinement of these juveniles in juvenile facilities. Juvenile facilities can provide both for the public safety and the specific evaluation and treatment needs of the juvenile.

### **Reduction of Disproportionate Minority Contact (DMC)**

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 Juvenile Justice Title II Part B Formula Grants program allocation, making it the fourth and final core protection of the JJDP Act. 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.

As amended by the JJDP Act of 2002, the concept of disproportionate minority confinement has been broadened to address the disproportionate number of minority youth who come into contact with the juvenile justice system at several points, beginning with the point of arrest and following through to the point of incarceration or transfer to adult court. The JJDP Act of 2002 requires states to “address

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<sup>3</sup> Dale Parent et al., *Conditions of Confinement: Juvenile Detention and Corrections Facilities - Research Summary*, Office of Juvenile Justice and Delinquency Prevention (1994) and Martin Forst, Jeffrey Fagan, and T. Scott Vivona, “Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy,” *Juvenile & Family Court Journal*: 40(1)(1989).

<sup>4</sup> Michael G. Flaherty, *An Assessment of the National Incidence of Juvenile Suicide in Adult Jails, Lockups, and Juvenile Detention Centers*, The University of Illinois, Urbana-Champaign (1980).

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.”

A Glossary of Terms may be found under **Appendix A**.

## **FEDERAL STATUTORY AUTHORITY**

The federal Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice is responsible for the administration of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 2002.<sup>5</sup>

The following requirements and regulations are located in Section 223(a) of the JJDP Act of 2002.

### **DEINSTITUTIONALIZATION OF STATUS OFFENDERS REQUIREMENT (DSO)**

#### **Adult Jails and Lockups:**

Adult jails and lockups cannot hold status offenders, non-offenders, or civil-type offenders in a secure manner at any time. 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 awaiting release to a parent or guardian.

#### **Secure Juvenile Facilities**

The JJDP Act provides that status offenders, nonoffenders, and civil-type offenders not be detained or confined in secure detention or correctional facilities. There may be rare situations, however, where short-term secure custody of accused status offenders may be necessary. For example, detention in a juvenile facility for a brief period of time prior to formal juvenile court action, for investigative purposes, for identification purposes, or for the purpose of allowing return to the juvenile’s parents or guardian may be necessary. Detention for a brief period of time under juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement. Therefore, OJJDP regulations allow a juvenile detention facility to hold an accused status offender in a secure juvenile detention facility for up to 24 hours, exclusive of weekends and legal holidays, prior to an initial court appearance, and for an additional 24 hours, exclusive of weekends and legal holidays, immediately following an initial court appearance. Status offenders who fail to appear for court hearings remain status offenders; they cannot be upgraded to delinquent status for their failure to appear.

Status offenders cannot be securely detained after adjudication unless all of the conditions of the VCO exception are met. Juveniles who have committed a violation of the federal Youth Handgun Safety Act or are held in accordance with the Interstate Compact on Juveniles as enacted by the state are excluded from the DSO requirement in total.

Youth Handgun Safety Act Exception. The Youth Handgun Safety Act<sup>6</sup> prohibits possession of a handgun by a minor under the age of 18. Because the Youth Handgun Safety Act applies only to juvenile offenders and handgun possession, in most cases, and 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

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<sup>5</sup> Public Law 107-273

<sup>6</sup> United States Code, Title 18, Section 922(x)

juveniles who violate this provision or a similar State law can be placed in secure detention or secure correctional facilities without violating the DSO requirement.

Out-of-State Runaways. Out-of-State runaways securely held beyond 24 hours solely for the purpose of being returned to proper custody in another State in response to a want, warrant, or request from a jurisdiction in the other State, or pursuant to a court order, must be reported as violations of the DSO requirement.<sup>7</sup> Juveniles held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirement in total.

Federal Wards. The JJDP Act states that “juveniles who are aliens shall not be placed in secure detention facilities or secure correctional facilities.” 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 country of citizenship, must be reported as violations of the DSO requirement.<sup>8</sup>

#### Exception for Status Offenders Who Violate a Valid Court Order (VCO)

The VCO exception provides that adjudicated status offenders found to have violated a valid court order may be securely detained in a juvenile detention or correctional facility.

The JJDP Act of 2002 defines a valid court order as 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 the order, the full due process rights guaranteed to such juvenile by the Constitution of the United States. It is important to note that status offenders who violate a VCO cannot be held in an adult jail or lockup for any length of time.

For the VCO Exception to apply, the JJDP Act requires that the following actions occur when a status offender is taken into custody for violating a valid court order:

- An appropriate public agency must be promptly notified that the juvenile is held in custody for violating the order;
- No later than 24 hours during which the juvenile is held, an authorized representative of the agency shall interview, in person, the juvenile; and
- No later than 48 hours during which the juvenile is held:
  - The representative must submit an assessment to the court that issued the order regarding the immediate needs of the juvenile; and
  - 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 alleged violation.

In the event the court orders the juvenile detained pending the disposition hearing, the disposition hearing should be held as soon as possible while still allowing reasonable time for the court to obtain additional information to enable it to make a disposition in the best interest of the status offender.

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<sup>7</sup> OJJDP will exclude these violations if their presence creates a noncompliance rate in excess of 29.4 per 100,000 juvenile population.

<sup>8</sup> Because State and local governments do not have jurisdiction over these juveniles, OJJDP will exclude these violations if their presence creates a noncompliance rate in excess of 29.4 per 100,000 juvenile population.

Although some states' common laws or statutes allow the courts to use traditional contempt power, failure to appear, or probation violation to upgrade a status offender to a delinquent offender; a status offender held for violating a valid court order remains a status offender, and the VCO violation process must be followed, unless the violation itself is a delinquent act as defined under federal law.

The VCO forms supporting the use of the valid court order exception are located under **Attachment B**. An electronic version of the VCO forms may be found on the Alabama Administrative Office of Courts (AOC) website as well: [www.alacourt.gov](http://www.alacourt.gov).

Civil-type offenders: OJJDP defines a civil type offender as a juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include non-criminal traffic violations and non-criminal fish and game violations. OJJDP guidance prohibits the detention of status offenders, non-offenders, and civil-type offenders in secure detention or correctional facilities. In rare circumstances, short-term secure custody of accused civil-type offenders may be necessary prior to an initial court appearance for investigative purposes, identification purposes, or for the purpose of arranging bond or allowing return to the juvenile's parent or guardian. Regulations allow a juvenile facility to hold an accused civil-type offender (Failure To Appear warrant on a non-criminal traffic or possession of tobacco infraction) in a juvenile detention center for up to 24 hours, excluding weekends and holidays, prior to an initial court appearance. Civil-type offenders who fail to appear for court hearings remain non-criminal violators; they cannot be upgraded to delinquent status for their failure to appear.

## SIGHT AND SOUND SEPARATION REQUIREMENT

### **Adult Jails and Lockups:**

Sight and sound separation must be achieved in all secure areas of the facility. Accused or adjudicated delinquent offenders, status offenders, and nonoffenders cannot have contact with adult inmates, including inmate trustees. Contact is defined to include any physical or sustained sight and sound contact. 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 juveniles.

In accordance with current OJJDP policy and proposed regulations, 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 or Scared Straight Programs).

### **Secure Juvenile Facilities:**

Accused or adjudicated delinquent offenders, status offenders, and nonoffenders cannot have contact with adult inmates, including inmate trustees. Contact is defined to include any physical or sustained sight and sound contact. Sight contact is defined as clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between adult inmates and juveniles.

It is important to note that the separation requirement prohibits a state from transferring adult offenders to a juvenile correctional authority for placement in a juvenile facility. For example, an adult could not be transferred to a juvenile detention center to alleviate overcrowding in an adult jail.

Inmate trustees who perform maintenance or other duties at a juvenile detention center or juvenile training school must be sight and sound separated from the juvenile detainees at all times. 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.

## JAIL REMOVAL REQUIREMENT

### **Adult Jails and Lockups:**

The JJDP Act states that “no juvenile shall be detained or confined in any jail or lockup for adults....” There are two exceptions, used by Alabama, to this requirement:

- A 6-hour holding exception for alleged delinquent offenders.
- An exception for juveniles formally waived or transferred to a criminal court.

### 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 accused juvenile 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 juvenile 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 the jail removal requirement.

### 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’s jurisdiction has been invoked through the filing of criminal felony charges. Note that waiver or transfer and the filing of criminal felony charges does not transform a juvenile from juvenile status into adult status. Therefore, such a juvenile can be detained (or confined after conviction) in a juvenile facility and commingled with juvenile offenders until that juvenile reaches the state’s age of majority.

### Transferred, Certified, or Waived Juveniles

A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court does not have to be separated from adult criminal offenders. This is due to the fact that such a juvenile is not accused or adjudicated delinquent (the juvenile is under a criminal proceeding not a delinquency proceeding). Likewise, an adult held in an adult jail or lockup for a delinquency proceeding (generally related to a crime committed before reaching the full age of criminal responsibility) can be held securely in an adult jail or lockup because the adult is not a juvenile alleged to be, or found to be, delinquent. Both types of individuals can be placed wherever the legislature or courts, where authorized, deem appropriate.

*Alabama Code provides that the juvenile court loses jurisdiction over persons under 18 with regard to delinquent/criminal acts under the following code sections:*

*§12-15-203 provides that the juvenile court may transfer children over the age of 14 for adult prosecution. Once transferred, a conviction or youthful offender adjudication (excluding traffic violations) terminates the jurisdiction of juvenile court with regards to any pending or future delinquent acts, and*

*§12-15-204 provides that if a juvenile is 16 years of age and is charged with certain serious felony offenses, the person shall be charged, arrested and tried as an adult. Again, a conviction or youthful offender adjudication terminates the jurisdiction of juvenile court with regards to any pending or future delinquent acts.*

A one page JJDP Act Quick Reference Guide can be found under **Appendix C**.

#### Collocated Juvenile and Adult Secure Facility

The JJDP Act defines a collocated facility as a juvenile facility that is located in the same building or is part of a related complex of buildings located on the same grounds as an adult facility. A related complex of buildings is defined as two or more buildings that share physical features (such as walls and fences) or services beyond mechanical services (such as heating, air conditioning, water and sewer).

Criteria for Collocated Facilities to maintain compliance with the JJDP Act:

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 adult inmates in the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas.
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 adult inmates.
3. If the state allows the facility to use the same staff to serve both the adult and juvenile populations, there must be in effect a state policy that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles.
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.

#### COMPLIANCE MONITORING REQUIREMENT

Compliance monitoring<sup>9</sup> is required to provide for an adequate system of monitoring jails, lockups, detention facilities, correctional facilities, and non-secure facilities to ensure the core requirements of the JJDP Act are met.

The Alabama Department of Economic and Community Affairs (ADECA) Law Enforcement and Traffic Safety Division (LETS Division) is the state agency designated to administer the federal funds and oversee the compliance monitoring effort in Alabama. The monitoring system identifies all facilities that may hold juveniles pursuant to public authority, tracks all confined juveniles, addresses incidents of noncompliance, and reports annually to the Office of Juvenile Justice and Delinquency Prevention. Maintaining compliance is essential for the continued flow of federal juvenile justice grant program funds to the State.

The names of all juveniles detained securely need to be logged and reported monthly to assure compliance and to assist in addressing any compliance issues that arise. On-site visits to each facility with the capability to detain persons securely are conducted to verify data and inspect for compliance. These on site visits will occur at a minimum of every three years.

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<sup>9</sup> Public Law 107-273, Title II, Section 223(a)(15)

## DISPROPORTIONATE MINORITY CONTACT REQUIREMENT (DMC)

The JJDP Act of 2002 mandates that States must: “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.”<sup>10</sup>

### **Process for Data Collection and Analysis**

As part of implementing a national data collection system for DMC issues, OJJDP has created a set of standard definitions for each of the stages in the juvenile justice system. These definitions are provided in the chart below.

### **Standard Definitions for Each Stage in the Juvenile Justice System**

<b>Stage</b>	<b>Definition</b>
Arrest	Youth are considered to be arrested when law enforcement agencies apprehend, stop, or otherwise contact them and suspect them of having committed a delinquent act. Delinquent acts are those that, if an adult commits them, would be criminal, including crimes against persons, crimes against property, drug offenses, and crimes against the public order.
Referral	Referral is when a potentially delinquent youth is sent forward for legal processing and received by a juvenile or family court or juvenile intake agency, either as a result of law enforcement action or upon a complaint by a citizen or school.
Diversion	Youth referred to juvenile court for delinquent acts are often screened by an intake department (either within or outside the court). The intake department may decide to dismiss the case for lack of legal sufficiency, resolve the matter informally (without the filing of charges), or resolve it formally (with the filing of charges). The diversion population includes all youth referred for legal processing but handled without the filing of formal charges.
Detention	Detention refers to youth held in secure detention facilities at some point during court processing of delinquency cases (i.e., prior to disposition). In some jurisdictions, the detention population may also include youth held in secure detention to await placement following a court disposition. For the purposes of DMC, detention may also include youth held in jails and lockups. Detention should not include youth held in shelters, group homes, or other nonsecure facilities.
Petitioned / charges filed	Formally charged (petitioned) delinquency cases are those that appear on a court calendar in response to the filing of a petition, complaint, or other legal instrument requesting the court to adjudicate a youth as a delinquent or status offender or to waive jurisdiction and transfer a youth to criminal court. Petitioning occurs when a juvenile court intake officer, prosecutor, or other official determines that a case should be handled formally. In contrast, informal handling is voluntary and does not include the filing of charges.
Delinquent findings	Youth are judged or found to be delinquent during adjudicatory hearings in juvenile court. Being found (or adjudicated) delinquent is roughly equivalent to being convicted in criminal court. It is a formal legal finding of responsibility. If found to be delinquent, youth normally proceed to disposition hearings where they may be placed on probation, committed to residential facilities, ordered to perform community service, or various other sanctions.
Probation	Probation cases are those in which a youth is placed on formal or court-ordered supervision following a juvenile court disposition. Note: youth on “probation” under voluntary agreements without adjudication should not be counted here but should be part of the diverted population instead.

<sup>10</sup> Public Law 107-273, Title II Subtitle B, Section 12209 (P) (23)

<p>Confinement in secure correctional facilities</p>	<p>Confined cases are those in which, following a court disposition, youth are placed in secure residential or correctional facilities for delinquent offenders. The confinement population should not include all youth placed in any form of out-of-home placement. Placement of juveniles within group homes, shelter homes, and mental health treatment facilities, for example, would usually not be considered confinement. Every jurisdiction collecting DMC data must specify which forms of placement do and do not qualify as confinement.</p>
<p>Transferred to adult court</p>	<p>Waived cases are those in which a youth is transferred to criminal court as a result of a judicial finding in juvenile court. Prior to a waiver hearing, the District Attorney usually files a petition asking the juvenile court judge to waive jurisdiction over the case. The juvenile court judge decides whether the case merits criminal prosecution. When a waiver request is denied, the matter is usually scheduled for an adjudicatory hearing in the juvenile court. If the request is granted, the juvenile is judicially waived to criminal court for further action. Juveniles may be transferred to criminal court through a variety of other methods, but most of these methods are difficult or impossible to track from within the juvenile justice system, including prosecutor discretion or concurrent jurisdiction, legislative exclusion, and the variety of blended sentencing laws.</p>

## Appendix A: Glossary

### GLOSSARY OF TERMS

- **Adult inmate.** An individual who has reached the age of criminal responsibility under applicable State law, has been arrested, and is in custody awaiting trial on a criminal charge, or is convicted of a criminal offense.
- **Adult jail.** A locked facility, administered by state, county, or local law enforcement 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.
- **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.
- **Collocated Facility.** Facilities that are located in the same building or are part of a related complex of buildings located on the same grounds.
- **Contact.** 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.
- **Court holding facility.** A court holding facility is a secure facility, other than an adult jail or lockup, which is used to temporarily detain persons immediately before or after detention hearings or other court proceedings.
- **Criminal-type 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.
- **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.
- **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.
- **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.
- **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.

- **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.
- **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 premise of a law enforcement facility, but not be in a secure detention or confinement status.
- **Related complex of buildings.** Two or more buildings that share physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer).
- **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.
- **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 or non-offenders.
- **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. The following are examples of status offenses: Truancy, Violations of curfew, Unruly, Runaway, Underage possession and/or consumption of tobacco products, Underage possession and/or consumption of alcohol.
- **Trained and certified to work with juveniles.** At a minimum, this must include training on youth development, adolescent physical and mental health, and non-violent crisis intervention.
- **Waived to Adult Court.** Formal process of transferring or direct filing a juvenile case to the adult court for trial.

**Appendix B: VCO FORMS**

State of Alabama  
Unified Judicial System

Form JU 32 Rev. 03/09

**VALID COURT ORDER (VCO)  
EXCEPTION ASSESSMENT REPORT**

Case Number \_\_\_\_\_

IN THE JUVENILE COURT OF \_\_\_\_\_ COUNTY, ALABAMA

In the Matter of \_\_\_\_\_, a child

COMES NOW, \_\_\_\_\_, and reports to the court as follows:

The above-named child was placed in \_\_\_\_\_, on \_\_\_\_\_, at \_\_\_\_\_ a.m. p. m.

The above-named child was interviewed in person by \_\_\_\_\_, on \_\_\_\_\_ at \_\_\_\_\_ a.m. p.m.

The circumstances, events or behaviors related to this event are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The immediate needs of this child are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The appropriate placement for this child pending disposition of the alleged violation is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Signature \_\_\_\_\_

42 U.S.C.A. §5633(a)(23); Ala. Code 1975, §12-15-208(b)(3)

Court Record: (Original), DETENTION FACILITY: (Copy), CHILD/ATTORNEY: (Copy)

# VALID COURT ORDER (VCO) EXCEPTION

## Checklist Permitting Limited Secure Detention of Status Offenders (All conditions must be met)

IN THE JUVENILE COURT OF \_\_\_\_\_ COUNTY, ALABAMA

IN THE MATTER OF \_\_\_\_\_, a child DOB: \_\_\_\_\_

Case No.: \_\_\_\_\_

### Items to be addressed for issuing a Valid Court Order on a “status offender” [as defined in Ala. Code 1975, Section 12-15-201(4)] to assure compliance with the federal Juvenile Justice and Delinquency Prevention Act:

A petition was filed on \_\_\_\_\_ alleging the above-named child to be a child in need of supervision or a delinquent child pursuant to Ala. Code 1975, Sections 12-15-102(4) or 12-15-102(7), respectively, in the above-referenced case number. The allegations in the petition meet the definition of “status offender” in Ala. Code 1975, Section 12-15-201(4).

On \_\_\_\_\_, before the issuance of the order of adjudication in the above referenced case number, the juvenile court judge advised the above-named child of his or her full due process rights guaranteed by the Constitution of the United States.

On \_\_\_\_\_, the juvenile court judge issued a valid court order in the above referenced case number. Ala. Code 1975, § 12-15-201(5) defines a valid court order as an order given by a juvenile court judge to a child who was brought before the juvenile court and made subject to the order, and who received, before the issuance of the order, the full due process rights guaranteed to the child by the Constitution of the United States.

### Procedural requirements for Valid Court Order (VCO) exception:

When the above-named child was detained for violation of a valid court order, the following were met: \_\_\_\_\_, immediately (\_\_\_\_\_) was notified by \_\_\_\_\_ (name of the juvenile detention facility) that the child is held in secure custody for violating the valid court order.

The notice by the juvenile detention facility included the date and time the child entered the juvenile detention facility, namely \_\_\_\_\_.

The child was interviewed, in person, by \_\_\_\_\_ on \_\_\_\_\_, which was within the first 24 hours during which the child was held in secure custody, excluding weekends and holidays.

## Appendix C: JJDP A Reference Sheet

### Juvenile Justice and Delinquency Prevention Act of 2002 Quick Reference Guide for SECURE FACILITIES

#### Definition of Terms:

- Secure Custody:** As used to define a detention or correctional facility this term includes facilities which include construction features designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, cuffing rails, or other physical structures.
- Non-Offender:** A juvenile who is subject to the jurisdiction of the juvenile court under abuse, dependency or neglect statutes.
- Status Offender:** A juvenile who has committed a crime that would not be a crime if committed by an adult: runaway, curfew violator, truant and minor in possession/consumption of alcohol or tobacco.
- Civil-type Offender:** A juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include non-criminal traffic violations and non-criminal fish and game violations.
- Valid Court Order:** The term means a court order given by a juvenile court judge to a juvenile status offender who has been brought before the court and made subject to a court order.

Type of Juvenile	Adult Jails & Lockups	Juvenile Detention and Correctional Facilities
Non-offender	May not be held securely for any period of time.	Secure holding is prohibited for non-offenders.
Accused Status Offender	May not be held securely for any period of time.	Secure holding is limited to 24 hours prior to and 24 hours after an initial court appearance (excluding weekends and holidays).
Status Offender Accused of Violating a VCO	May not be held securely for any period of time.	Juvenile must be interviewed in-person within 24 hours of secure placement, with a report to the court. Juvenile must have a reasonable cause hearing within 24 hours of being placed in detention. Time limits exclude weekends and holidays.
Status Offender Adjudicated for Violating a VCO	May not be held securely for any period of time.	No limits on holding.
Civil-type, Non-criminal Traffic Offender	May not be held securely for any period of time.	Secure holding is limited to 24 hours prior to and 24 hours after an initial court appearance (excluding weekends and holidays).
Accused and Adjudicated Juvenile Offender	May be held for up to 6 hours prior to and 6 hours after a court appearance. Juveniles must be sight and sound separated from adult inmates.	No limits on holding

## **Appendix D: Additional Resources**

### ***American Bar Association***

<http://www.abanet.org/crimjust/juvjus/home.html>

### ***American Correctional Association***

<http://www.aca.org>

### ***American Probation and Parole Association***

<http://www.appa-net.org>

### ***Blueprints for Violence Prevention***

Center for the Study and Prevention of Violence  
University of Colorado

<http://www.colorado.edu/cspv/blueprints/>

### ***Center for Problem Oriented Policing, US Department of Justice***

Problem Specific Guides

<http://www.popcenter.org/problems.htm>

### ***Center for the Promotion of Mental Health in Juvenile Justice***

<http://www.promotementalhealth.org>

### ***Community Guide to Helping America's Youth***

<http://www.helpingamericasyouth.gov>

### ***DMC Resources***

<http://www.jja.ks.gov/DMC.html>

<http://ojjdp.ncjrs.org/dmc/>

[http://www.ncjrs.gov/html/ojjdp/dmc\\_ta\\_manual/](http://www.ncjrs.gov/html/ojjdp/dmc_ta_manual/)

### ***Exemplary and Promising Safe, Disciplined and Drug-Free Schools***

Safe, Disciplined and Drug-Free Schools Expert Panel

<http://www.ed.gov/admins/lead/safety/exemplary01/exemplary01.pdf>

### ***Foundation Center***

<http://foundationcenter.org/>

### ***GRANTS FOR NONPROFITS: Law and Criminal Justice***

<http://staff.lib.msu.edu/harris23/grants/2gov.htm>

### ***John D. and Catherine T. MacArthur Foundation***

<http://www.macfound.org/>

### ***Juvenile Detention Alternatives Initiative***

Annie E. Casey Foundation

<http://www.aecf.org>

### ***Juvenile Information Network***

<http://www.juvenilenet.org>

### ***Juvenile Law Center***

<http://www.jlc.org>

### ***Model Program Guide***

Office of Juvenile Justice and Delinquency Prevention

<http://www.dsgonline.com>

**National Center for Juvenile Justice**

<http://www.ncjj.org>

**National Council of Juvenile and Family Court Judges**

<http://www.ncjfcj.unr.edu>

**National Criminal Justice Reference Service**

<http://www.ncjrs.org/>

**National Juvenile Detention Association**

<http://www.njda.com>

**National Mentoring Center**

<http://www.nwrel.org/mentoring/>

**National Association of Youth Courts**

American Probation and Parole Association

<http://www.youthcourt.net/>

**Strategies and Tools for Communities to Help Youth**

<http://www.findyouthinfo.gov>

**Strengthening America's Families, Effective Family Programs for Prevention of Delinquency**

Department of Health Promotion and Education, University of Utah

<http://www.strengtheningfamilies.org>

**Substance Abuse and Mental Health Services Administration (SAMHSA) Model Programs**

U.S. Department of Health and Human Services

<http://modelprograms.samhsa.gov>

**Truancy Prevention—Empowering Students, Schools, and Communities**

Office of Juvenile Justice and Delinquency Prevention

<http://ojjdp.ncjrs.org/truancy/>

**Vera Institute of Justice**

<http://www.vera.org>

**Youth Law Center**

<http://www.ylc.org/>

## **Appendix E: Contacts**

### **Juvenile Compliance Monitoring Contacts**

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