

Nebraska Compliance Monitoring Manual

2025



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I. INTRODUCTION

Title II, Part B, of the [Juvenile Justice and Delinquency Prevention Act](#) (JJDP A) sets out detailed requirements that a state must satisfy in order to be eligible to receive funding under the Act's Formula Grants Program, including the submission of a state plan that satisfies the requirements set forth at 34 U.S.C. § 11133(a)(1)-(33). Under the Act, "[i]n accordance with regulations which the Administrator shall prescribe, such plan shall," among other things—

...provide for an effective system of monitoring jails, lock-ups, detention facilities, and correctional facilities to ensure that the core requirements are met, and for annual reporting of the results of such monitoring to the Administrator[.] [34 U.S.C. § 11133(a)(14)]

This manual addresses the core requirements found in 34 U.S.C. §§ 11133(a)(11), (12), and (13):

- Deinstitutionalization of Status Offenders (DSO)
- Removal of juveniles from adult jails and lockups (Jail Removal)
- Separation of juveniles from adult inmates in institutions (Separation)
- Section 223(a)(11)(B), (Removal of Juveniles Prosecuted as Adults from Adult Facilities)

The racial and ethnic disparities core requirement found at 34 U.S.C. § 11133(a)(15) is not discussed in this manual as states do not monitor individual facility for compliance with this core requirement.

Detailed information on each of the core requirements at 34 U.S.C. § 11133(a)(11), (12), and (13) with direct statutory and regulatory references can be found in section II, *Compliance with the Core Requirements*.

II. COMPLIANCE WITH THE CORE REQUIREMENTS

This section describes the core requirements at 34 U.S.C. § 11133(a)(11), (12), and (13).

II-A. DEINSTITUTIONALIZATION OF STATUS OFFENDERS (DSO)

Pursuant to [34 U.S.C. § 11133\(a\)\(11\)\(A\)](#), juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult (status offenders), or juveniles who are not charged with any offense and are unauthorized immigrants or are alleged to be dependent, neglected or abused (non-offenders), shall not be placed in secure detention facilities or secure correctional facilities. Compliance with the DSO requirement has been achieved when a state can demonstrate that no such juveniles were placed in secure detention and correctional facilities, or when the state's DSO rate falls below the established threshold.

YOUTH HANDGUN SAFETY EXCEPTION – Under [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(I\)](#), the DSO requirement does not apply to juveniles charged with or found to have committed a violation of the Youth Handgun Safety Act (18 U.S.C. § 922(x)), or a similar state law, which prohibits a person younger than 18 from possessing a handgun. Such juveniles may be placed in secure detention or secure correctional facilities without resulting in an instance of noncompliance with the DSO requirement.

VALID COURT ORDER EXCEPTION – The Valid Court Order (VCO) exception at [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(II\)](#) provides that accused or adjudicated status offenders, and juveniles found to have violated a valid court order based on their status as a juvenile, may be placed in a secure juvenile detention or correctional facility.

A juvenile who has committed a violation of a court order that is not related to his status as a juvenile (i.e., an offense with which an adult may be charged, such as failure to appear) is neither a status offender nor nonoffender and the DSO requirement does not apply (see Section III.E. Adherence to Federal Definitions for the definition of “valid court order”).

To demonstrate compliance with the statutory requirements governing the VCO exception, states must have a process in place to verify whether court orders used to place status offenders in juvenile detention centers (including juveniles who violate valid court orders related to their status as a juvenile), meet the requirements (as set forth at 34 U.S.C. § 11133(a)(23)). Nebraska does not have a Valid Court Order Exception and Nebraska Statute explicitly does not allow for the detention or confinement of status offenders, therefore the requirements for a VCO will not be explained in this manual.

INTERSTATE COMPACT ON JUVENILES EXCEPTION – Pursuant to the DSO requirement at [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(III\)](#), status offenders may be held in accordance with the Interstate Compact on Juveniles, as the state has enacted it. States must verify that all status offenders subject to an out-of-state placement were held pursuant to the Compact. Where the interstate placement of status offenders was not in accordance with the Compact, the state in which the juvenile is placed must report the placement as an instance of noncompliance.

II-B. REMOVAL OF JUVENILES PROSECUTED AS ADULTS FROM ADULT FACILITIES

Under [Section 223\(a\)\(11\)\(B\)](#), on or after December 21, 2021, a juvenile who is charged as an adult cannot be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure adult facility, except as provided below.

A juvenile charged as an adult may be detained in an adult jail or lockup if one of the exceptions at 34 U.S.C. § 11133(a)(13) applies (Six-Hour Exception, Rural Exception, Travel Conditions Exception, and Conditions of Safety Exception). See Section II.D. Removal of Juveniles from Adult Jails and Lockups.

In addition, pursuant to section 223(a)(11)(B), a court may determine after a hearing, and in writing, that it is in the interest of justice to permit a juvenile to be detained in a jail or lockup for adults or have sight or sound contact with adult inmates in a secure facility. If the court makes an initial determination that it is in the interest of justice to detain a juvenile under those circumstances, the court must hold a hearing at least every 30 days (at least every 45 days in a rural jurisdiction) to review whether it is still in the interest of justice to continue to detain the juvenile in an adult jail or lockup or such that he had contact with adult inmates in a secure facility. In determining whether it is in the interest of justice to detain (or continue to detain) a juvenile, the court must consider:

1. the age of the juvenile;
2. the physical and mental maturity of the juvenile;
3. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
4. the nature and circumstances of the alleged offense;
5. the juvenile's history of prior delinquent acts;
6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth;
and
7. any other relevant factor(s)

The maximum amount of time that a juvenile charged as an adult may be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure facility is 180 days, unless the court determines, in writing, that there is good cause for such an extension, or the juvenile expressly waives this 180-day limit.

More information on the process for collecting data regarding this requirement and verifying that all of the Section 223(a)(11)(B) requirements have been met can be found in section III-I, *Compliance Data Collection and Verification*.

II-C. SEPARATION OF JUVENILES FROM ADULT INMATES

Pursuant to [34 U.S.C. § 11133\(a\)\(12\)](#), juveniles alleged to be or found to be delinquent, status offenders, and juveniles who are not charged with an offense and who are unauthorized immigrants or alleged to be dependent, neglected, or abused may not be detained or confined in any institution in which they have sight or sound contact with adult inmates.

In order to comply with the separation requirement, states must also have in effect a policy that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, to have been trained and certified to work with juveniles.

JUVENILES WHO ARE TRANSFERRED, CERTIFIED, OR WAIVED TO CRIMINAL COURT – Juveniles who have been transferred, certified, or waived to criminal court, and are therefore charged as adults, may not be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure facility, unless it is pursuant to one of the exceptions at 34 U.S.C. § 11133(a)(13)(B).

However, a court may determine that it would be in the interest of justice to do so consistent with [34 U.S.C. § 11133\(a\)\(11\)\(B\)](#). See Section 223(a)(11)(B) above, which applies to juveniles charged as adults. If a juvenile who has been charged as an adult has been convicted and sentenced for the criminal offense, however, Section 223(a)(11)(B) no longer applies.

JUVENILES WHO REACH THE AGE OF FULL CRIMINAL RESPONSIBILITY AFTER ARREST OR ADJUDICATION – Individuals who commit an offense while still a juvenile and who have reached the age of full criminal responsibility only after arrest or adjudication, but remain under juvenile court jurisdiction, are not adult inmates and need not be separated from juveniles until they have reached the state's maximum age of extended juvenile jurisdiction. By contrast, individuals who are under juvenile court jurisdiction and who subsequently commit a separate offense after reaching the age of full criminal responsibility, are adult inmates, who must not have sight or sound contact with juvenile detainees.

PROGRAMS IN WHICH JUVENILES HAVE SIGHT OR SOUND CONTACT WITH ADULT INMATES – Programs in which juveniles have sight or sound contact with adult inmates in an attempt to educate juveniles about life in prison and/or deter them from delinquent or criminal behavior (such as Scared Straight or shock incarceration programs) may result in instances of noncompliance with the separation (and possibly DSO and jail removal) requirements. Whether these programs result in instances of noncompliance will depend on the specific manner in which the program operates and the circumstances of the juveniles' participation in such a program.

Instances of noncompliance with the separation requirement may only occur if a juvenile's participation in such a program is pursuant to law enforcement or juvenile or criminal court authority. In addition, for violations to occur, the juvenile must not be free to leave or withdraw from participation, even if her/his parent/guardian has not consented to, or wishes to withdraw consent for, the juvenile's participation.

More information on Nebraska's process for collecting data regarding this requirement and verifying that all the separation requirements have been met can be found in section III-I, *Compliance Data Collection and Verification*.

II-D. REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

Pursuant to [34 U.S.C. § 11133\(a\)\(13\)](#), no juvenile shall be detained or confined in any jail or lockup for adults, with exceptions described below. Juveniles who are accused of status offenses, juveniles who are not accused of any offense, and juveniles who have been adjudicated as delinquent may not be detained or confined for any length of time in an adult jail or lockup.

The following four statutory exceptions apply to the jail removal requirement, as long as juveniles accused of non-status offenses do not have sight or sound contact with adult inmates and the state has in effect a policy that requires individuals who work with both juveniles and adult inmates in collocated facilities to have been trained and certified to work with juveniles:

SIX-HOUR EXCEPTION – The jail removal requirement at [34 U.S.C. § 11133\(a\)\(13\)\(A\)](#) allows the detention or confinement in an adult jail or lockup of juveniles accused of delinquent offenses (i.e., offenses that would be a criminal offense if committed by an adult), under the following circumstances:

- a. A juvenile accused of a delinquent offense may be detained for no more than 6 hours for the purposes of processing or release or while awaiting transfer to a juvenile facility.
- b. A juvenile who has been adjudicated as delinquent may not be detained in an adult jail or lockup, for any length of time, without resulting in an instance of noncompliance with the jail removal requirement.

The following three exceptions allow states to detain or confine juveniles accused of non-status offenses in adult jails or lockups for more than 6 hours while awaiting an initial court appearance and so long as the juveniles do not have sight or sound contact with adult inmates, and the state has in effect a policy that requires individuals who work with such juveniles and adult inmates to be trained and certified to work with juveniles.

RURAL EXCEPTION – The exception found at [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(I\)](#) provides that juveniles accused of non-status offenses may be detained or confined in jails or lockups for adults for as long as 48 hours (excluding Saturdays, Sundays, and legal holidays) while awaiting an initial court appearance, when the jail or lockup is outside a metropolitan statistical area (as defined by the Office of Management and Budget (OMB)), and the state has no existing acceptable alternative placement available.

TRAVEL CONDITIONS EXCEPTION – Under [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(II\)](#), states may detain a juvenile accused of a delinquent offense in an adult jail or lockup, if the facility is located where conditions of distance to be traveled or the lack of highway, road, or transportation does not allow

for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable.

CONDITIONS OF SAFETY EXCEPTION – Under [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(III\)](#), if the adult jail or lockup is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), a juvenile accused of a delinquent offense may be detained therein and his or her court appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

More information on Nebraska’s process for collecting data regarding this requirement and verifying that all jail removal requirements have been met can be found in section III-I, *Compliance Data Collection and Verification*.

III. ELEMENTS OF AN EFFECTIVE SYSTEM OF MONITORING

III-A. SUMMARY OF ELEMENTS

Last Revision: June 2025

States participating in the Formula Grants Program must provide for an effective system of monitoring jails, lockups, detention facilities, and correctional facilities to ensure that they meet the core requirements, pursuant to the monitoring and reporting requirement at [34 U.S.C. § 11133\(a\)\(14\)](#). The state's monitoring system, if it is to comply with the statutory and regulatory monitoring requirements, must include all jails, lockups, secure detention facilities, and secure correctional facilities. There are eight elements of an effective system of monitoring. For each of the following elements, the state should include a description of its specific policies and procedures:

1. Compliance Monitoring Policies and Procedures
2. Monitoring Authority
3. Violation Procedures
4. Adherence to Federal Definitions
5. Identification of the Monitoring Universe
6. Classification of the Monitoring Universe
7. Inspection of Facilities
8. Compliance Data Collection and Verification

Requirement

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)](#), one of the required elements of an effective system of monitoring is that states must describe their policies and procedures for monitoring for compliance with the core requirements. The purpose of this manual is to satisfy the policies and procedures element, as well as to describe how Nebraska satisfies the following additional elements required for an effective system of compliance monitoring (see Section III of this manual).

Policy

Nebraska will review and update the Compliance Monitoring Manual at least annually, but if substantive policy changes occur which require multiple updates, it can be updated more frequently as necessary.

Procedures

Review and Update

The Compliance Monitoring Manual shall be reviewed annually by the Compliance Monitor and the Juvenile Justice Specialist and updated as needed. The manual shall also be reviewed for additional modifications after the issuance of any revised regulations or guidelines by the Office of Juvenile Justice and Delinquency Prevention.

Any policy updates or revisions to the Compliance Monitoring Manual will require the written approval of the Executive Director of the Crime Commission or their designee.

Manual Location

The electronic file is titled "Compliance Monitoring Manual" and maintained on record at the Nebraska Crime Commission. The Compliance Monitor has the responsibility to ensure that all copies are the latest revision. The manual is also made available for review on the Nebraska Crime Commission website at ncc.nebraska.gov.

Requirement

States are required under [34 U.S.C. § 11133\(a\)\(1\) and \(2\)](#) to designate an agency (referred to as the Designated State Agency, or the DSA) and provide satisfactory evidence that the DSA has authority, by legislation, if necessary, to administer the Title II Formula Grants Program, including monitoring for compliance with the deinstitutionalization of status offenders (DSO), Section 223(a)(11)(B), separation, and jail removal requirements.

Policy

In Nebraska the compliance monitoring requirement has been met through the efforts of the Nebraska Commission on Law Enforcement and Criminal Justice (Nebraska Crime Commission), a code agency under the executive branch of state government.

Procedures

The Nebraska Crime Commission is the designated state agency responsible for monitoring all secure adult and juvenile detention facilities, juvenile staff secure facilities, and adult lockups in the state. The Nebraska Crime Commission utilizes a team approach for agency operations. The monitoring program is led by the Compliance Monitor with the support and assistance of the entire team of the agency which includes the Juvenile Justice Specialist, Juvenile Programs and Interventions Division, Jail Standards Division, Federal Grants and Program Division, Budget and Accounting Division, Systems and Research Division, and the Executive Director. Although the Compliance Monitor has the primary responsibility for Nebraska's Compliance Monitoring Program, the Jail Standards Division conducts supplemental monitoring of the separation of juvenile and adult offenders as required by the Nebraska Jail Standards and Juvenile Detention Facility Standards.

Nebraska Revised Statutes § [81-1416](#) states:

There is hereby created the Nebraska Commission on Law Enforcement and Criminal Justice. The commission shall educate the community at large to the problems encountered by law enforcement authorities, promote respect for law and encourage community involvement in the administration of criminal justice. The commission shall be an agency of the state, and the exercise by the commission of the powers conferred by the provisions of sections [81-1415](#) to [81-1426.01](#) and [81-1429.03](#) shall be deemed to be an essential governmental function of the state.

The following sources are evidence of Nebraska's authority to conduct compliance monitoring:

Nebraska Revised Statutes [§83-4,124 – 4,134](#) establishes the Jail Standards Board administered by the Nebraska Crime Commission. Jail Standards staff, which includes the Compliance Monitor, are specifically given the statutory duty to visit and inspect each criminal detention facility, juvenile detention facility, and

staff secure juvenile facility in the state for the purpose of determining the conditions of confinement, the treatment of persons confined in the facilities, and whether such facilities comply with the minimum standards established by the Jail Standards Board (NRS [§83-4,131](#)).

Nebraska establishes minimum jail standards for both adult and juvenile facilities through agency rules and regulations which can be found at the [Nebraska Jail Standards Documents](#) page on the Nebraska Crime Commission website.

Secondly, Executive Order 95-10 signed by then Governor Ben Nelson states:

1. The State of Nebraska Commission on Law Enforcement and Criminal justice shall be the designated agency responsible for the administration of the Juvenile Justice Delinquency Prevention Act Formula Grants Program and shall further be the agency designated to monitor and implement compliance with the requirements of the JJDP Act.
2. All Executive Branch officials and Code Agencies are directed to take all measures within their authority to comply with the JJDP Act.
3. The judiciary and local units of government are strongly urged to work together with state agencies to comply with the JJDP.

Requirement

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(iii\)](#), the state must specify how it receives, investigates, and reports complaints of instances of noncompliance with the DSO, Section 223(a)(11)(B), separation, and jail removal requirements.

Policy

Annually, all data obtained of juveniles detained or confined will be reviewed by the Compliance Monitor to determine if there were any instances of noncompliance with the DSO, Section 223(a)(11)(B), separation, and jail removal requirements. All violations will be accepted by the Nebraska Crime Commission for further investigation and action taken, as necessary and appropriate. The Nebraska Crime Commission will respond to issues of violations with effective strength-based strategies which foster and promote compliance with the JJDP Act through education, cooperation, and partnerships. After investigation, any instances of noncompliance will be reported in the annual compliance monitoring report.

Procedures

Process for Investigating and Responding to Potential Compliance Violations

The process to receive, investigate and respond to compliance violation reports is as follows:

- A. The Compliance Monitor will serve as the primary contact for receiving, investigating, and reporting alleged compliance violations throughout the state. Information collected includes the type of alleged violation, time and duration of violation, location, and court order related documents.
- B. When a violation is reported, the Compliance Monitor will contact the facility involved to confirm the violation and circumstances of the violation.
- C. If it is determined that a violation exists the Compliance Monitor will provide the facility with a written notification of the violation, and the facility will be given the opportunity to respond within a given time frame.
- D. In addition to written notifications to facilities, any judge whose direct actions result in a violation may also receive notification and be given an opportunity to respond.
- E. All notifications of violations will be accompanied by an opportunity for education and technical assistance regarding the JJDP Act and/or corrective plans of action.
- F. Facilities refusing to provide documentation responding to violation allegations will have those allegations reported as violations.
- G. The Compliance Monitor will report violations to the Nebraska Coalition for Juvenile Justice and the Nebraska Crime Commission, at their regularly scheduled meetings.
- H. All documentation and correspondence regarding violations will be maintained on record at the Nebraska Crime Commission and included in the facility file for five years.

- I. Compliance monitoring record keeping will include data collection on all violations to determine patterns of practice that exist and violate the JJDP Act.
- J. Annually, all violations will be reported to the OJJDP and included in the Nebraska Coalition for Juvenile Justice's report to the Governor and Legislature of Nebraska.
- K. Sanctions on facilities with a pattern of violations will be considered on case-by-case bases and may include but not be limited to strategies involving increased levels of compliance monitoring, participation at stakeholder meetings, mandatory training, funding restrictions, and jail standards inspections.

Requirement

Definitions that states use for key juvenile and criminal justice terms sometimes differ from the “federal” definitions. The federal definitions, for purposes of compliance monitoring, are only those provided in the JJDPa at [34 U.S.C. § 11103](#), the Formula Grants Program Regulation at [28 C.F.R. § 31.304](#), and [An Overview of Statutory and Regulatory Requirements for Monitoring Facilities for Compliance With the Deinstitutionalization of Status Offenders, Separation, and Jail Removal Provisions of the Juvenile Justice and Delinquency Prevention Act.](#)

Policy

The Nebraska Crime Commission will document and ensure that all state definitions that differ from federal definitions have been identified and addressed in the monitoring process. While monitoring for compliance with the core requirements, federal definitions will be used in any instance in which state definitions differ from federal definitions.

Procedures

- A. The Compliance Monitor shall review Federal and State definitions annually as a component of the update of this manual.
- B. The Compliance Monitor shall update definitions as needed.
- C. The Juvenile Justice Specialist shall review and approves changes.

See *Attachment A* for a list of all applicable definitions.

Requirement

The reporting of instances of noncompliance with the core requirements is facility-based and therefore the “monitoring universe” includes all facilities within the state (public and private) that are jails and lockups for adults (including court holding facilities), secure detention facilities, and secure correctional facilities (including adult prisons), as listed at [34 U.S.C. § 11133\(a\)\(14\)](#). These are the facilities in which instances of noncompliance with the core requirements may occur. States must ensure that they identify and include all of these facilities as part of the monitoring universe.

Policy

The Nebraska Crime Commission will maintain a current and accurate listing of all secure facilities operating across the state which house juveniles. All criminal justice agencies including law enforcement and prisons are monitored by the Nebraska Crime Commission.

Facilities in the Monitoring Universe must be classified according to the four types of facilities listed in [34 U.S.C. § 11133\(a\)\(14\)](#): adult jails, adult lockups, secure detention facilities, and secure correctional facilities. Facilities in the Monitoring Universe should be included only if they meet the definition of one of those facility types. See *Attachment A* for a list of all applicable definitions.

The monitoring universe includes both residential and nonresidential facilities, as the monitoring requirement under [34 U.S.C. § 11133\(a\)\(14\)](#) is not limited to residential facilities.

Mental health and substance abuse treatment facilities will not be included in the monitoring universe unless they meet the definition of “secure detention facility” at [34 U.S.C. § 11103\(12\)](#) or “secure correctional facility” at [34 U.S.C. § 11103\(13\)](#).

States are not required to monitor nonsecure facilities and they are therefore not included in the monitoring universe. In order to ensure that the monitoring universe includes all facilities that meet the statutory definition of “jail or lockup for adults,” ([34 U.S.C. § 11103\(22\)](#)) “secure detention facility,” ([34 U.S.C. § 11103\(12\)](#)), and “secure correctional facility,” ([34 U.S.C. § 11103\(13\)](#)), however, nonsecure facilities will still be visited to monitor for any change from nonsecure to secure.

Any public facility owned or operated by a state (or a jurisdiction located in the state) will be included in the monitoring universe.

When a state contracts with a private facility within the state’s own borders, that facility must be included within the state’s monitoring universe.

Procedures

Establishing and Updating the Master List

- A. The Compliance Monitor will be responsible to record all identified facilities on a master list referred to as the Monitoring Universe.
- B. Annually (January – March), the Compliance Monitor will be responsible for identifying those facilities appropriate for the Monitoring Universe from the lists of agencies with active licenses from the Nebraska Department of Health and Human Services, Public Health, Licensure Unit.
- C. Annually (May), the Compliance Monitor will review the newly published Nebraska Criminal Justice Directory to identify all active law enforcement and correctional agencies for inclusion in the Monitoring Universe.
- D. Any newly identified facility will be provided a self-survey and/or an on-site visit to determine appropriateness for JJDP Act compliance monitoring.
- E. If any question as to the status of a facility is brought up by SAG members or other community stakeholders, the Compliance Monitor and/or Juvenile Justice Specialist will contact and visit the facility in question to confirm as soon as it is convenient.

III-G. CLASSIFICATION OF THE MONITORING UNIVERSE

Last Revision: June 2025

Requirement

States are required under [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(B\)](#) to classify each facility in the monitoring universe to specify whether it is a (1) a jail or lockup for adults ([34 U.S.C. § 11103\(22\)](#)); (2) secure detention facility ([34 U.S.C. § 11103\(12\)](#)); or (3) secure correctional facility ([34 U.S.C. § 11103\(13\)](#)).

The Compliance Monitor will continually classify and/or reclassify all facilities listed in the monitoring universe based on on-site inspections.

Policy

A Compliance Monitoring Universe master document is compiled and maintained by the Compliance Monitor. Because the monitoring universe is constantly evolving, a copy of the monitoring universe will not be included in this manual however the Compliance Monitor can be contacted for a current list of facilities in the universe.

Procedures

Facilities must be classified only according to the four types of facilities listed in [34 U.S.C. § 11133\(a\)\(14\)](#): adult jails, adult lockups, secure detention facilities, and secure correctional facilities. The Compliance Universe must indicate which of the facility types each facility falls within. In addition, each facility will be listed as either residential or nonresidential, and whether the facility is juveniles-only, adults-only, or juveniles

and adults. (Note: some of these categories may overlap, e.g., all or part of a jail or lockup may also meet the definition of a secure detention or correctional facility.) For classification purposes, Prisons fall within the definition of “secure correctional facility” at [34 U.S.C. § 11103\(13\)](#). Court holding facilities fall within the definition of “jail or lockup for adults” at [34 U.S.C. § 11103\(22\)](#).

The classification of facilities is an on-going process. Facility classification will be verified through an on-site inspection by the Compliance Monitor to ensure the classification is true and accurate, thereby ensuring an effective system of monitoring. See the *Inspection of Facilities* section of this manual for information on verifying the facility classification. Any new facilities in the monitoring universe will be visited by the Compliance Monitor to establish classification at the earliest possible time.

Facility classification will be documented and recorded on the monitoring universe listing and on appropriate facility records maintained by the Compliance Monitor.

III-H. INSPECTION OF FACILITIES

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Requirement

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(C\)](#), inspection of facilities is necessary to ensure an accurate assessment of each facility’s classification and record keeping.

Policy

One hundred percent (100%) of all secure facilities (adult, juvenile, and collocated) in the monitoring universe shall be inspected by the Compliance Monitor within a 3-year period (process detailed below).

Procedures

The Compliance Monitor will be responsible for coordinating the inspections of facilities, to include adult jails, adult lockups, secure detention facilities, and secure correctional facilities. Throughout the calendar year, the Compliance Monitor with the assistance from the Jail Standards division will inspect facilities to ensure an accurate assessment of each facility's classification and record keeping.

A facility inspection will include:

1. A review of the physical accommodations to determine:
 - a. Secure/Non-secure classification
 - b. Juvenile, adult, or collocated classification
 - c. Residential or non-residential
 - d. Sight and sound separation compliance (if applicable); and
 - e. Rural Exception (if applicable)

2. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with the DSO, jail removal, and sight and sound separation core requirements.
3. A report on each facility's compliance or noncompliance will be made available as a record of findings of the inspection.

The Compliance Monitor/Jail Standards staff will perform site inspections according to the following:

1. All facilities new to the monitoring universe will receive a site inspection at the earliest possible date.
2. All collocated facilities will receive a site inspection each year.
3. No less than 10% of all adult jails and lockups will receive a site inspection each year; the entire adult jail and lockup universe will receive a site visit within three years. As Nebraska is a returning state, it will take time to get the 100% of the facilities monitored. It is anticipated that up to 45% of facilities could be inspected each year, but no less than 10% will be inspected each year, allowing for flexibility to make up more inspections in other years due to staff turnover, getting new Compliance Monitor staff hired and trained in the first years of returning to participation, and establishing the infrastructure building and sustainability for compliance monitoring. There is no expectation for exactly 33.33% of facilities to be inspected each year, but all facilities will be inspected by the third year.

Facility Inspection Activities

The Compliance Monitor will contact facility administrators to schedule a date and time for a site inspection.

The Compliance Monitor/Jail Standards Staff will perform the following tasks at each facility inspection:

1. Review the physical accommodations and complete the following forms:
 - a. Sight and Sound Separation Checklist (if applicable)
 - b. Rural Exception Check List
2. Obtain a facility layout. Ensure that physical structures are in place to accurately provide efficient sight and sound barriers.
3. Review the facility's policies and procedures.
4. The Compliance Monitor will determine and review how each facility maintains its records on detainees and will provide training, direction and technical assistance when needed to ensure the DSO, separation, and jail removal requirements.
5. To determine accuracy of the records, the Compliance Monitor will compare the information submitted by the facility with the original data source maintained by the facility records.
6. The Compliance Monitor will make its Compliance Monitoring On-Site Summary Results available to the facility as a record of findings of the inspection.

The Compliance Monitor/Jail Standards Staff will address issues of facilities' non-cooperation with site inspection requests with the Jail Standards Division Director.

The Compliance Monitor will maintain site-inspection records in the facility file and will document activity on the Compliance Monitoring Universe Master List.

See *Attachment B* for an example of a Site Summary report form, , and Verification of Sight and Sound Separation form.

Inspections of Facilities on Native American Reservations

The sovereign authority of Native American Tribes with regard to civil and criminal jurisdiction over acts committed on a reservation varies from state to state and, in some states, from tribe to tribe within a state. Where a Native American tribe exercises jurisdiction over juvenile offenders through an established tribal court and operates correctional institutions for juveniles and adults, and these activities are not subject to state law (i.e., the functions are performed under the sovereign authority of the tribal entity), the state cannot mandate tribal compliance with the core protections. Therefore, where the state has no authority to regulate or control the law enforcement activities of a sovereign Native American tribal reservation, facilities located on such reservations are not required to be included in the inspection cycle.

Requirement

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(D\)](#) and [\(5\)](#), the state must collect and verify data from all adult jails, adult lockups, secure detention facilities, and secure correctional facilities for the 12-month federal fiscal year (FY) reporting period, to determine whether the facilities are in compliance with the applicable requirements of DSO, Section 223(a)(11)(B), separation, and jail removal. The federal fiscal year is October 1 to September 30. States that are unable to report data for 100% of facilities must report data for at least 85% of facilities within the state that are required to report.

Policy

The Compliance Monitor must verify self-reported data or data provided by another agency. Data verification may be completed through onsite review of records or through review of electronic records maintained by other agencies.

Procedures

To ensure compliance with the JJDP Act and in accordance with Nebraska Jail Standards and Juvenile Detention Facility Standards all adult jails, lockups, secure detention facilities, and secure correctional facilities will be required to submit admission and release data to the Nebraska Crime Commission.

The Nebraska Crime Commission will maintain a web-based statewide information sharing system referred to as Nebraska Criminal Justice Information System (NCJIS). Daily, this system will pull information from the databases of criminal justice agencies throughout the state of Nebraska. Information in NCJIS will be maintained for an indefinite period of time. Facilities will be required to enter inmate information during each individual's booking process including charges and date and time of admission and discharge.

Records for juveniles in secure holding should include:

- Name or Identification Number
- Date of Birth
- Gender
- Race/Ethnicity
- Offense (most serious) for which the juvenile is being held
- Location being held
- Date and time placed in a secure setting

- Date and time taken out of a secure setting
- Times in and out of a secure setting prior to a court appearance (if applicable)
- Times in and out of a secure setting after a court appearance (if applicable)
- Person/Agency released to
- Valid Court Order (VCO) documentation (if applicable)
- Section 223(a)(11)(B) documentation (if applicable)

Data Collection and Verification Process:

- A. The Compliance Monitor will be responsible for collecting relevant information on a 12-month reporting period based on a federal fiscal year, October 1 through September 30.
- B. The Compliance Monitor will be certified to access information through NCJIS by the Nebraska Crime Commission.

Data Sets by Type of Facility

The Compliance Monitor is responsible for collecting and verifying data from all adult jails, adult lockups, secure detention facilities, and secure correctional facilities in the state.

Juvenile Detention/Correctional Facilities

No adult inmate trustees are used in any secure juvenile detention or correctional facilities; therefore, these facilities will not need to be monitored for violations of the separation requirement.

Data from juvenile detention facilities is automatically fed into NCJIS nightly. The compliance monitor will query for DSO violations monthly. Data from juvenile correctional facilities will be collected annually. Data will be collected on the following:

1. *Accused status offenders held for more than 24 hours (excluding Saturdays, Sundays, and holidays) prior to and/or immediately following an initial court appearance, excluding those held pursuant to a Valid Court Order, and out of state runaways held pursuant to the Interstate Compact.*
 - a. JJDPa regulations allow an accused status offender to be placed in a secure juvenile detention facility for up to 24 hours (exclusive of Saturdays, Sundays, and legal holidays) prior to an initial court appearance, and for an additional 24 hours (exclusive of Saturdays, Sundays, and legal holidays) immediately following an initial court appearance. Any status offender held beyond the 24 hours are violations of DSO.
2. *Adjudicated status and non-offenders held for any length of time.*

- a. Any non-offender sentenced to detention, or any adjudicated status offender held without benefit of the Valid Court Order, are violations of DSO. (See below for info on the Valid Court Order)

3. *Status offenders held pursuant to a violation of a Valid Court Order (VCO).*

Status offender held pursuant to a Valid Court Order Exception are not violations of the DSO core requirement if the VCO process was followed and properly documented. Nebraska does NOT have a valid court order exception.

Documentation that all steps were satisfied will be provided.

- A. In November, the Juvenile Justice Specialist will be responsible to review Nebraska Criminal Justice Information System (NCJIS) booking data received from the Systems and Research Division that facilities entered into NCJIS information including facility type, booking dates and times, and charges.
- B. Any issues noted will be conveyed to the Compliance Monitor to address through a phone call or site visit.
- C. In November, the Compliance Monitor team will send out declaration forms to all facilities in the university to clarify that they did not hold youth, or if they did, were in compliance with the core requirements (example in Attachment C).
- D. The Compliance Monitor will contact the facility regarding any information which appears incomplete or questionable.
- E. Any corrections to data will be noted by the facility and/or Compliance Monitor.
- F. Verification of booking information will be conducted during on-site compliance monitoring.
- G. The Compliance Monitor will verify at least 10% of all status offenders, who had been detained or booked, are not held on status offenses or were held pursuant to Interstate Compact.
- H. During site visits, the Compliance Monitor will be responsible for reviewing Nebraska Criminal Justice Information System (NCJIS) and paper records submitted for completeness of information including facility type, booking dates and times, and charges.

Applicable Nebraska Statutes regarding use of VCOs include:

Nebraska does NOT have a Valid Court Order Exception for status offenders. Valid Court Orders were removed from Nebraska Statute effective January 1, 2013. Prior to 2013, Nebraska allowed a

status offender accused of violating a valid court order to be securely detained in a juvenile detention facility longer than twenty-four hours if he or she is afforded a detention hearing before a court within twenty-four hours, excluding nonjudicial days, and if, prior to a dispositional commitment to secure placement, a public agency, other than a court or law enforcement agency, is afforded an opportunity to review the juvenile's behavior and possible alternatives to secure placement and has submitted a written report to the court.

Currently, status offenders taken into temporary custody cannot be held in secure areas of adult jails and lockups ([Neb. Rev. Stat. § 43-250 \(vi\)](#)), and youth adjudicated for status offenses cannot be placed in adult or youth correctional facilities or the youth rehabilitation and treatment centers ([Neb. Rev. Stat. §43-251.01\(2\)](#)). Additionally, youth alleged to be status offenders will not be placed in juvenile detention facilities that are secure. Alleged status offenders can be placed in a staff secure wing of a youth facility that complies with staff secure requirements and supervision ([Neb. Rev. Stat. §43-251.01 \(6\)](#)).

4. *Out-of-State Runaways*

Interstate Compact on Juveniles Exception: Pursuant to the DSO requirement at [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(III\)](#), status offenders may be held in accordance with the Interstate Compact on Juveniles, as the state has enacted it. The Compliance Monitor will verify with the Nebraska Interstate Compact Coordinator that all status offenders subject to an out-of-state placement were held pursuant to the Compact. Where the interstate placement of status offenders was not in accordance with the Compact, the state in which the juvenile is placed must report the placement as an instance of noncompliance.

5. *Juveniles Held Pursuant to a Contract*

The Compliance Monitor must collect and report compliance data on any juveniles detained pursuant to a contract with a federal agency and/or another state.

Adult Jails and Lockups

The Compliance Monitor will review booking information on-site, or by other electronic methods, and verify accuracy. Verification could include reviewing the arrest information, case file or court file on a sample of entries to determine if the time in and out is correct, and to determine if the most serious charge is listed.

The Compliance Monitor will retain pertinent records for reporting purposes, and they will become part of the individual Facility File. If it is not feasible to collect documents, the Compliance Monitor will collect the information onsite and request the facility archive the logs for one year.

No delinquent offenders, status offenders, and non-offenders can be detained for any amount of time in a secure setting or secure section of an adult jail or lockup as a disposition of an offense or as a means of modifying their behavior (e.g., Scared Straight programs). Data will be collected on the following:

1. *Accused status and non-offenders detained or confined for any period of time.*

Adult jails and lockups cannot detain or confine status offenders, non-offenders, or alien juveniles at any time. These juveniles may be in a non-secure area of an adult jail or lockup for processing, while awaiting transportation to a non-secure shelter care facility or a juvenile detention center, or while awaiting release to a parent or guardian.

Adult jails and lockups should keep records of every juvenile who enters the facility. For status offenders, non-offenders, and alien juveniles, the records should indicate if the juvenile was detained or confined in a secure or a non-secure area. If such a juvenile is detained or confined at any time, this hold would count as a violation of both DSO and Jail Removal. If detained or confined and not sight and sound separated from adult inmates, the result would be a violation of DSO, Separation, and Jail Removal.

2. *Juveniles accused of nonstatus offenses detained for more than 6 hours.*

The JJDPa allows for the detention in an adult jail or lockup of those juveniles accused of committing nonstatus offenses (i.e., offenses that would be a criminal offense if committed by an adult) for the purposes of processing or release, while awaiting transfer to a juvenile facility, or during which period they make a court appearance. Any holding of juveniles should be limited to the absolute minimum time necessary to complete these purposes, not to exceed 6 hours. Any juveniles held over 6 hours are violations of the Jail Removal core requirement.

Once the juvenile has been detained or confined and the 6-hour period has begun, the facility cannot temporarily take the juvenile out and begin the 6-hour time period again. However, the time during which a juvenile is detained in a courtroom does not count toward the 6-hour limit, because a courtroom is not a jail or lockup for adults.

Any detention or confinement not related to processing/transfer/release, or a court appearance is a violation of the Jail Removal core protection.

Further, the juvenile cannot have sight or sound contact with adult inmates during the time the juvenile is detained or confined. The location of where the juvenile is held should be noted to help ensure sight and sound separation was maintained.

Rural Exception

The JJDPa provides a “rural” exception, allowing the temporary detention in a jail or lockup beyond the 6-hour limit of juveniles accused of non-status offenses who are awaiting an initial court appearance within 48 hours after being taken into custody (excluding weekends and legal holidays). Such juveniles shall not have sight or sound contact with adult inmates.

It is important to note that the rural exception does not apply to status offenders. Status offenders may not be held for any length of time in an adult jail or lockup.

States must document, in writing, that all the following conditions are met in order for an accused juvenile non-status offender awaiting an initial court appearance to be detained in an adult jail or lockup under the Rural Exception:

- The geographic area having jurisdiction over the juvenile must be outside a metropolitan statistical area (i.e., qualify as a “rural” area) as defined by the Office of Management and Budget;
- A determination must be made that there is no existing acceptable alternative placement for the juvenile pursuant to criteria developed by the state and approved by OJJDP;
- The adult jail or lockup must have been certified by the state to provide for the sight and sound separation of juveniles and adult inmates;

Travel Conditions/Conditions of Safety Exceptions

Juveniles who are accused of nonstatus offenses who are awaiting an initial court appearance may also be detained in a jail or lockup if:

- the facility is located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation does not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed 48 hours) delay is excusable; or
- the facility is located where conditions of safety exist (e.g., severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

The Compliance Monitor will maintain documentation of any time these exceptions are used and the situation that justified their use. If the use is not justified, this will result in a jail removal violation.

3. *Adjudicated juveniles detained or confined for any length of time.*

Placement of adjudicated status offenders, including a juvenile who violates a VCO, in an adult jail or lockup would result in an instance of noncompliance with the jail removal requirement.

The statutory exceptions to the jail removal requirement do not apply to juveniles who have been adjudicated as delinquent. Detention or confinement in an adult jail or lockup for any length of time of these juveniles will result in a jail removal violation.

4. *Separation violations.*

Separation of juveniles from adult inmates must be achieved in all secure areas of the facility. Sight and Sound contact is defined as any physical, clear visual, or verbal contact that is not brief and inadvertent.

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

The only juveniles who do not need to be separated from adult inmates without a violation of the core protections would be juveniles for whom a court has held a hearing and determined that it's in the interest of justice to detain the juvenile in an adult jail or lockup, juveniles who have been sentenced pursuant to adult criminal court jurisdiction under section 223(a)(11)(B), or those who have reached the age of full criminal responsibility after arrest or adjudication.

5. *Removal of juveniles prosecuted as adults from adult facilities, juveniles who are transferred certified, or waived to criminal court.*

Pursuant to section 223(a)(11)(B), unless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility shall not have sight or sound contact with adult inmates, and may not be held in any jail or lockup for adults.

In determining whether it is in the interest of justice to detain (or continue to detain) a juvenile, the court must consider:

- a. the age of the juvenile;
- b. the physical and mental maturity of the juvenile;
- c. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
- d. the nature and circumstances of the alleged offense;
- e. the juvenile's history of prior delinquent acts;
- f. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
- g. any other relevant factor(s)

If a court determines under clause (i) that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults—

- a. the court shall hold a hearing not less frequently than once every 30 days, or in the case of a rural jurisdiction, not less frequently than once every 45 days, to review whether it is still in the interest of justice to permit the juvenile to be so held or have such sight or sound contact; and
- b. the juvenile shall not be held in any jail or lockup for adults or permitted to have sight or sound contact with adult inmates, for more than 180 days, unless the court, in writing, determines there is good cause for an extension or the juvenile expressly waives this limitation.

The Compliance Monitor will review all cases in which a juvenile was housed in an any jail or lockup for adults to determine if the requirements of section 223(a)(11)(B) were followed in their entirety. Incidents will be verified through review of appropriate court documents including the Order for Detention, pre-book form and minutes of relevant review hearings. All incidents that cannot be verified as having followed the process outlined in section 223(a)(11)(B) will be reported as violations.

In order to utilize the above exceptions, the facility must participate and be certified in the juvenile training provided by the Jail Standards division. The policy on the training required to use the exception is outline below.

Adult Correctional Facilities

Holding status offenders or non-offenders in an adult correctional facility is an immediate violation of the JJDP.

No delinquent offenders, status offenders, or juvenile non-offenders can be detained or confined for any amount of time in a secure adult facility as a disposition of an offense or as a means of modifying their behavior (e.g., Scared Straight programs). A Separation violation occurs if a juvenile who is detained in a secure adult facility has sight or sound contact with an adult inmate.

The only juveniles allowed to be placed in adult correctional facilities without a violation of the core protections would be juveniles who have been sentenced pursuant to adult criminal court jurisdiction under section 223(a)(11)(B).

Requirement

Under [28 C.F.R. § 31.303\(f\)\(5\)](#), annual compliance monitoring reports must cover the previous federal fiscal year, except that the OJJDP Administrator may grant an extension of the reporting deadline, for good cause, upon a state's request.

COMPLIANCE DATA AND SUPPORTING DOCUMENTATION – Compliance data and supporting documentation is submitted annually through OJJDP's [Compliance Reporting Tool](#).

Policy

Nebraska will complete a report to present to the SAG, Crime Commission Board, and if requested, the governor and legislature, on an annual basis. If there are significant findings, the SAG will be notified at the next meeting even if it has not been a year since the previous report. Required plans, data, and forms will be submitted to OJJDP annually.

Procedures

In order to receive its full fiscal year allocation of Formula Grants program funds, a state must first demonstrate compliance with the DSO, section 223(a)(11)(B), separation, and jail removal requirements. Compliance with these requirements is demonstrated through data provided in the state's annual Compliance Monitoring Report, of which all data must be analyzed and verified prior to submission.

- A. The Compliance Monitor will retain primary responsibility for completing the annual report.
- B. Narrative portions of the report will be written by the Compliance Monitor during the fourth quarter of the calendar year (October - December).
- C. The Compliance Monitor will submit a draft of the report to the Juvenile Justice Specialist and/or supervisor for review and comments.
- D. This report will be presented to the State Advisory Group at their first meeting of the calendar year (January – March).
- E. All compliance plans, and data will submit to OJJDP annually.

V. TRAININGS FOR INDIVIDUALS WHO WORK WITH BOTH JUVENILE AND ADULT INMATES POLICY

In order to use any exceptions to the jail removal requirement, the state must have in effect a policy that requires individuals who work with both juveniles and adult inmates to be trained and certified to work with juveniles. This training includes but is not limited to juvenile rights and responsibilities; behavior management; adolescent growth and development; suicide risks and prevention; cultural diversity, and supervision of juveniles.

The Basic Corrections Officer Training conducted by the Jail Standards staff will have a juvenile section that includes the JJDPa and working with both juvenile and adult inmates. Any correctional staff that takes this training will receive a certification. As Nebraska is a returning state and many correctional officers have already completed the basic training, the Crime Commission will also work to create a virtual on-demand training in order for current correctional officers to obtain the juvenile certification. Until the staff at the correctional facility has the correct certification to work with juveniles, that facility is not eligible to use one of the exceptions and may not hold a youth in accordance with the JJDPa.

ATTACHMENT A

DEFINITIONS

Federal definitions will be used for any definitions used by the state of Nebraska that differ from federal definitions.

| <p>Federally Defined Terms Relating to Compliance With the Formula Grants Program</p> | <p>Similar State Definitions</p> |
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| <p>ADULT INMATE 34 U.S.C. §11103 (26) – means 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, and does not include an individual who (1) at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable state law; and (2) was committed to the care and custody or supervision, including post-placement or parole supervision, of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable state law.</p> | <p>Nebraska Administrative Code Title 81- Jail Standards Board</p> <p>002.26 Inmate - Any individual confined or residing in any jail facility.</p> <p>002.11 Detainee – Any person confined in a local detention facility not serving a sentence for a criminal offense.</p> <p>Nebraska Revised Statute § 83-170</p> <p>(2) Committed offender means any person who, under any provision of law, is sentenced or committed to a facility operated by the department or is sentenced or committed to the department other than a person adjudged to be as described in subdivision (1), (2), (3)(b), or (4) of section 43-247 by a juvenile court;</p> <p>(12) Person committed to the department means any person sentenced or committed to a facility within the department.</p> |
| <p>ASSESSMENT 34 U.S.C. 11103(38) – includes, at a minimum, an interview and review of available records and other pertinent information – (A) by an appropriately trained professional who is licensed or certified by the applicable state in the mental health, behavioral health, or substance abuse fields; and (B) which is designed to identify significant mental health,</p> | |

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
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| behavioral health, or substance abuse treatment needs to be addressed during a youth’s confinement. | |
| COLLOCATED FACILITIES 34 U.S.C. § 11103 (28) – means facilities that are located in the same building or are part of a related complex of buildings located on the same grounds. | |
| CORE REQUIREMENTS 34 U.S.C. § 11103 (30) – means the requirements described at 34 U.S.C. § 11133(11), (12), (13), and (15) . | |
| CRIMINAL-TYPE OFFENDER 28 C.F.R. § 31.304(a) – means a juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime, if committed by an adult. | <p>Nebraska Revised Statute §43-247</p> <p>Juvenile court; jurisdiction.</p> <p>The juvenile court in each county shall have jurisdiction of:</p> <p>(1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance, and who, beginning July 1, 2017, was eleven years of age or older at the time the act was committed;</p> <p>(2) Any juvenile who has committed an act which would constitute a felony under the laws of this state and who, beginning July 1, 2017, was eleven years of age or older at the time the act was committed;</p> <p>Nebraska Revised Statute §43-245</p> <p>(2) Age of majority means nineteen years of age;</p> |

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
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DETAIN OR CONFINE | [28 C.F.R. § 31.304 \(b\)](#) – means to hold, keep, or restrain a person such that he or she is not free to leave or that a reasonable person would believe that he is not free to leave. The exception is a juvenile that law enforcement holds solely to return him to his parent or guardian or pending his transfer to the custody of a child welfare or social service agency. In this case, the youth is not detained or confined within the meaning of this definition.

[Nebraska Revised Statute §43-245\(24\)](#) **Secure detention** means detention in a highly structured, residential, hardware-secured facility designed to restrict a juvenile's movement;

INSTITUTION | [Compliance Monitoring TA Tool](#) means “a secure facility that law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or adults (1) accused of having committed a delinquent or criminal offense, (2) awaiting adjudication or trial for the delinquent or criminal offense, or (3) found to have committed the delinquent or criminal offense.”

[Nebraska Revised Statute §83-4,125\(1\)](#) **Criminal detention facility** means any institution operated by a political subdivision or a combination of political subdivisions for the careful keeping or rehabilitative needs of adult or juvenile criminal offenders or those persons being detained while awaiting disposition of charges against them. Criminal detention facility does not include any institution operated by the Department of Correctional Services.

[Nebraska Revised Statute §83-4,125\(2\)](#) **Juvenile detention facility** means an institution operated by a political subdivision or political subdivisions for the secure detention and treatment of persons younger than eighteen years of age, including persons under the jurisdiction of a juvenile court, who are serving a sentence pursuant to a conviction in a county or district court or who are detained while waiting disposition of charges against them. Juvenile detention facility does not include any institution operated by the department;

[Nebraska Revised Statute §83-4,125\(3\)](#) **Juvenile facility** means a residential child-caring agency as defined in section [71-1926](#), a juvenile detention facility or staff secure juvenile facility as defined in this section, a facility operated by the Department of Correctional Services that houses youth under the age

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
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| <p>JAIL OR LOCKUP FOR ADULTS 34 U.S.C. § 11103 (22) – means a secure facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adult inmates.</p> | <p>of majority, or a youth rehabilitation and treatment center;</p> <p>Nebraska Revised Statute §47-117 For the purposes of Chapter 47, article 1, jail shall be defined to include a jail, house of correction, community residential center, work release center, halfway house, or other place of confinement of a person committed by any lawful authority to any suitable and appropriate residence, facility, center, or institution designated as a jail facility by the county.</p> <p>Nebraska Revised Statute §47-207 For the purposes of Chapter 47, article 2, jail shall be defined to include a jail, house of correction, community residential center, work release center, halfway house, or other place of confinement of a person committed by any lawful authority to any suitable and appropriate residence, facility, center, or institution designated as a jail facility by the city.</p> |
| <p>JUVENILE OFFENDER 28 C.F.R. § 31.304 (d) – means 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).</p> | <p>Nebraska Revised Statute §43-245(11) Juvenile means any person under the age of eighteen;</p> |
| <p>MAXIMUM AGE OF EXTENDED JUVENILE COURT JURISDICTION Compliance Monitoring TA Tool by OJJDP – means the age above which a juvenile court may no longer exercise jurisdiction under state law.</p> | <p>Nebraska Revised Statute §43-245(2) Age of majority means nineteen years of age.</p> <p>Nebraska Revised Statute § 43-247 (11) & (12) (11) The proceedings under the Young Adult Bridge to Independence Act; and</p> <p>(12) Except as provided in subdivision (11) of this section, any individual adjudged to be within the provisions of this section until the individual reaches</p> |

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
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| | the age of majority or the court otherwise discharges the individual from its jurisdiction. |
| <p>MONITORING UNIVERSE Compliance Monitoring TA Tool – means all public and private facilities in which law enforcement or criminal or juvenile court authority detain juveniles and/or adult inmates.</p> | |
| <p>NONOFFENDER 28 C.F.R. § 31.304 (j) – means 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.</p> | <p>Nebraska Revised Statute §43-247 (3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; who is in a situation or engages in an occupation, including prostitution, dangerous to life or limb or injurious to the health or morals of such juvenile; or who, beginning July 1, 2017, has committed an act or engaged in behavior described in subdivision (1), (2), (3)(b), or (4) of this section and who was under eleven years of age at the time of such act or behavior, (b)(i) who, until July 1, 2017, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school or (ii) who, beginning July 1, 2017, is eleven years of age or older and, by reason of</p> |

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
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| | <p>being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 71-908;</p> |
| <p>RESIDENTIAL Compliance Monitoring TA Tool – means equipped with beds, cots, or other sleeping quarters and has the capacity to provide for overnight accommodations for juveniles or adults who are accused of committing or who have committed an offense.</p> | <p>Nebraska Revised Statute § 43-245 (25) Staff secure juvenile facility means a juvenile residential facility operated by a political subdivision (a) which does not include construction designed to physically restrict the movements and activities of juveniles who are in custody in the facility, (b) in which physical restriction of movement or activity of juveniles is provided solely through staff, (c) which may establish reasonable rules restricting ingress to and egress from the facility, and (d) 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. Staff secure juvenile facility does not include any institution operated by the Department of Correctional Services;</p> |
| <p>SECURE as defined under 28 C.F.R. § 31.304 (m) and used to define a detention or correctional facility – 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.</p> | <p>Nebraska Revised Statute §83-4,125 (3) Juvenile facility means a residential child-caring agency as defined in section 71-1926, a juvenile detention facility or staff secure juvenile facility as defined in this section, a facility operated by the Department of Correctional Services that houses youth under the age of majority, or a youth rehabilitation and treatment center</p> |
| <p>SECURE CORRECTIONAL FACILITY 34 U.S.C. § 11103 (13) – means any public or private residential facility which—(1) includes construction fixtures designed to physically restrict the movements and activities of</p> | <p>Nebraska Revised Statute §83-4,125 (2) Juvenile detention facility means an institution operated by a political subdivision or political subdivisions for the secure detention and treatment of persons younger</p> |

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
|--|---|
| <p>juveniles or other individuals held in lawful custody in such facility; and (2) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.</p> | <p>than eighteen years of age, including persons under the jurisdiction of a juvenile court, who are serving a sentence pursuant to a conviction in a county or district court or who are detained while waiting disposition of charges against them. Juvenile detention facility does not include any institution operated by the department;</p> |
| <p>SECURE DETENTION FACILITY 34 U.S.C. § 11103 (12) – means any public or private residential facility which— (1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.</p> | <p>Nebraska Revised Statute §83-4,125 (5) Staff secure juvenile facility means a juvenile residential facility operated by a political subdivision (a) which does not include construction designed to physically restrict the movements and activities of juveniles who are in custody in the facility, (b) in which physical restriction of movement or activity of juveniles is provided solely through staff, (c) which may establish reasonable rules restricting ingress to and egress from the facility, and (d) 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. Staff secure juvenile facility does not include any institution operated by the department.</p> |
| <p>SIGHT OR SOUND CONTACT 34 U.S.C. § 11103 (25) – means any physical, clear visual, or verbal contact that is not brief and inadvertent.</p> | |
| <p>STATE 34 U.S.C. § 11103(7)– means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.</p> | |
| <p>STATUS OFFENDER 34 U.S.C. § 11103(42) – means a juvenile who is charged with or has committed an</p> | <p>Nebraska Revised Statute §43-247 (26) Status offender means a juvenile who has been charged with or adjudicated for conduct which would not be a crime if committed by an adult, including, but not limited to,</p> |

| Federally Defined Terms Relating to Compliance With the Formula Grants Program | Similar State Definitions |
|--|---|
| offense that would not be criminal if committed by an adult. | juveniles charged under subdivision (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02 ; |
| TWENTY-FOUR HOURS Compliance Monitoring TA Tool – means a consecutive 24-hour period, exclusive of any hours on Saturdays, Sundays, public holidays, or days on which the courts in a jurisdiction otherwise are closed. | |
| VALID COURT ORDER 34 U.S.C. § 11103(16) – means a court order that a juvenile court judge gives to a juvenile who was brought before the court and made subject to the order and who received, before the issuance of the order, the full due process rights that the U.S. Constitution guarantees to the juvenile. | |

ATTACHMENT B

COMPLIANCE MONITORING SITE VISIT REPORT

DATE: Click to enter a date NAME OF FACILITY: name

ADDRESS: address

NAME OF CONTACT: name EMAIL/PHONE: email/phone

FACILITY TYPE (check all that apply):

SHERIFF JAIL POLICE COURT HOLDING JDC JCC Prison

Remember when inspecting a facility, the goals should be to: develop and maintain positive relationships; confirm the classification; assess the separation levels at all points in the facility; and determine if the record keeping system is sufficient.

Begin by talking to the facility administrator or their designee and ask them about juvenile issues in their area. Are they seeing any trends with juveniles? Are they having any difficulties in managing juveniles? Is there any training they may need?

Ask to tour the facility, specifically any areas where a juvenile may be temporarily held. For each area, determine if the area is secure (a lock on the door, cuffing rings, etc.) or non-secure (the juvenile would be free to leave). Also note if these areas are residential (have a bed) or non-residential (no bed).

Walk throughout the facility as if you were a juvenile taken into custody, and ask questions such as:

- *Where do juveniles enter the facility?*
- *Is there a non-secure booking area?*
- *Where are other non-secure areas a juvenile may be placed?*
- *Where are the secure areas a juvenile may be held?*
- *Are adult inmates ever in the same area(s)?*

If sight and sound separation may be an issue with juvenile and adult offenders, test to see if you could see or hear adult offenders from where juveniles enter, where they are placed, and where they leave the facility. If there are issues, discuss ways to keep them separate.

Based on the tour, complete the classification:

CLASSIFICATION:

SECURE NON-SECURE BOTH

If both, list the location of secure areas: enter text

If both, list the location of non-secure areas: enter text

RESIDENTIAL NON-RESIDENTIAL BOTH

JUVENILE ONLY FACILITY ADULT ONLY FACILITY BOTH

WHERE WOULD STATUS OFFENDERS BE HELD? enter text

Remember, status offenders should never be held securely in an adult jail/lockup. If this is happening, discuss how they could be held non-securely.

WHERE WOULD JUVENILE DELINQUENTS (those being charged with a misdemeanor/felony) BE HELD? enter text

Remember, juvenile delinquents cannot be held in an adult jail/lockup for more than 6 hours. Ask how they keep record, and ask them to use a juvenile holding log if they have no computer system that you could access reports from.

If the facility is a court holding, adjudicated juveniles cannot be held securely. Ask where juveniles are placed after being sentenced while awaiting transport, and remind them they must be held non-securely.

Juveniles held longer than 6 hours due to unsafe travel conditions or other conditions of safety may not be a violation, but it must be documented. Make sure the facility understands that if there are any times that due to unsafe travel a juvenile must be held longer, they must notify the Compliance Monitor so that it can be documented.

IF ADULTS ARE IN THE SAME FACILITY, IS THERE SIGHT & SOUND SEPARATION?

NO SIGHT/SOUND SEPARATION SIGHT SEPARATION SOUND SEPARATION N/A

IF APPLICABLE, HOW ARE SIGHT & SOUND SEPARATION MAINTAINED (i.e. curtains, moving adult offenders, etc.)? enter text

ARE JUVENILES CHARGED AS ADULTS HELD IN THE SAME AREA WITH ADULT OFFENDERS?

YES NO N/A

Remember, juveniles charged as adults cannot be held with adult offenders unless specifically ordered by a judge with specific findings of fact made on record. Remind adult facilities and court holding facilities that these juveniles should still be treated like other juvenile offenders until they have been sentenced as an adult.

HOW IS DATA RECORDED/MAINTAINED (Computer Arts, Spillman, holding log, etc.)? enter text

ANY SAFETY/SECURITY CONCERNS? enter text

WHAT OTHER NEEDS DOES THE FACILITY HAVE? enter text

ADDITIONAL ITEMS:

OBTAIN FACILITY LAYOUT

This could be a floorplan or a fire evacuation map that shows the facility. If they cannot provide one, try to draw a facility diagram to document where the secure/non-secure areas for both juveniles and adults are located.

OBTAIN JUVENILE POLICY & PROCEDURES

If they have no specific policies and procedures, recommend they develop written procedures to document how juveniles are handled.

Adult Corrections Facility Inspection and Checklist

ADULT JAIL:

ADDRESS:

WARDEN:

PHONE:

FAX:

1. IS JAIL ON ANNUAL CERTIFICATION PROGRAM? YES___NO___(EXPL.) _____
2. HOW MANY CERTIFIED JUVENILES UNDER THE AGE OF 18 ARE BEING HELD? _____
3. VERIFIED DATA ATTCHED: _____ (Data should include the admitting charges at intake, age, length of stay, and disposition when released.)
4. VERIFICATION IS COMPLETED TO ENSURE THERE ARE NO JUVENILE STATUS OFFENDERS BEING HELD IN THIS FACILITY. _____
5. ARE THERE ANY SCARED STRAIGHT TYPE PROGRAMS BEING IMPLEMENTED? _____
6. DOES JAIL HAVE A WRITTEN POLICY/PROCEDURE FOR THE HANDLING OF JUVENILES?
7. _____ POLICY (REC'D) _____ POLICY (PROVIDED) _____.
8. ARE THEY AWARE THAT ANY JUVENILE NOT CERTIFIED AS AN ADULT MUST BE REMOVED FROM THE FACILITY ACCORDING TO STATUE? _____
9. HAS THE JJDP ACT BEEN REVIEWED WITH THE FACILITY? _____.
10. WERE THERE ANY QUESTIONS/CONCERNS REGARDING THE JJDP ACT? _____. IF SO,

PLEASE DESCRIBE:

11. HAS THE FACILITY INCURRED ANY JAIL REMOVAL/SIGHT & SOUND VIOLATIONS? ANY VIOLATIONS REGARDING DETAINING OF JUVENILES EXCLUDING EXCEPTIONS TO THE STATUE. _____ . If SO, PLEASE DESCRIBE:

SITE VISIT CONDUCTED BY: _____ DATE: _____

Youth Detention and Facilities Inspection and Checklist

NAME OF FACILITY:

ADDRESS:

Director:

PHONE:

FAX:

1. IS THE FACILITY ON AN ANNUAL CERTIFICATION PROGRAM? YES ___ NO ___ (EXPL.) _____
2. HOW MANY CERTIFIED JUVENILES UNDER THE AGE OF 18 ARE BEING HELD? _____
3. VERIFIED DATA ATTCHED: _____ (Data should include the admitting charges at intake, age, length of stay, and disposition when released.)
4. VERIFICATION IS COMPLETED TO ENSURE THERE ARE NO JUVENILE STATUS OFFENDERS BEING HELD IN THIS FACILITY. _____
5. ARE THERE ANY SCARED STRAIGHT TYPE PROGRAMS BEING IMPLEMENTED? _____
6. DOES THE FACILITY HAVE A WRITTEN POLICY/PROCEDURE FOR THE HANDLING OF JUVENILES?
7. _____ POLICY (REC'D) _____ POLICY (PROVIDED) _____.
8. ARE THEY AWARE THAT ANY JUVENILE WHO IS ADJUDICATED OR PRE-ADJUDICATED ON A STATUS OFFENCE SHOULD BE REMOVED FROM THE FACILITY ACCORDING TO STATUE? _____
9. HAS THE JJDP ACT BEEN REVIEWED WITH THE FACILITY? _____.
10. WERE THERE ANY QUESTIONS/CONCERNS REGARDING THE JJDP ACT? _____. IF SO,

PLEASE DESCRIBE:

11. HAS THERE BEEN ANY VIOLATIONS REGARDING DETAINING OF JUVENILES EXCLUDING EXCEPTIONS TO THE STATUE. _____. If SO, PLEASE DESCRIBE:

SITE VISIT CONDUCTED BY: _____ DATE: _____

ATTACHMENT C

**JUVENILE DECLARATION
JAILS AND LOCKUPS**

I, _____ (name), the Chief, Sheriff, or designated official of the _____ (name of jail or lockup) state personally and professionally that during the fiscal year October 1, 2023 to September 30, 2024:

(please check all that apply)

No status offenders or non-offenders were securely detained or confined for any length of time unless solely for the purpose of returning them to their parent or guardian.

No accused delinquent juvenile offenders were securely detained or confined for a period of time beyond 6 hours.

Any juvenile who was detained or confined for any length of time had no sight or sound contact with adult inmates.

Printed name of Chief, Sheriff or Designated Official

Signature

Date

APPENDIX A

ONLINE RESOURCES

| Title | Description | |
|---|--|-----------------------------|
| <p>Office of Juvenile Justice and Delinquency Prevention (OJJDP) Webpage</p> | <p>A component of the Office of Justice Programs within the U.S. Department of Justice, OJJDP works to prevent and respond to youth delinquency and protect children.</p> <p>Through its divisions, OJJDP sponsors research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming.</p> | <p>Link</p> |
| <p>Authorizing Legislation</p> | <p>This OJJDP webpage reviews the authorizing Legislation that Congress enacted in regards to the Juvenile Justice and Delinquency Prevention (JJDP) Act (Pub. L. No. 93-415, 34 U.S.C. § 11101 et seq.) in 1974. This landmark legislation established OJJDP to support local and state efforts to prevent delinquency and improve the juvenile justice system.</p> | <p>Link</p> |
| <p>Juvenile Justice and Delinquency Prevention Act</p> | <p>This is the text of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended.</p> | <p>Link</p> |
| <p>Redline Version Juvenile Justice and Delinquency Prevention Act as Amended by the Juvenile Justice Reform Act of 2018</p> | <p>This version of the Juvenile Justice and Delinquency Prevention Act (JJDP), includes the amendments made by the Juvenile Justice Reform Act of 2018 (in red).</p> | <p>Link</p> |
| <p>OJJDP Core Requirements Webpage</p> | <p>The information on this page assists states in monitoring and achieving compliance with the core requirements of the Formula Grants Program, including information on the background of the JJDP, supporting regulations, state compliance with JJDP core requirements, reporting requirements, guidance and resources, and staff contact information.</p> | <p>Link</p> |
| <p>OJJDP Fact Sheet: Key Amendments to the Juvenile Justice and Delinquency Prevention</p> | <p>This fact sheet describes several significant amendments to the JJDP made by the JJRA.</p> | <p>Link</p> |

| | | |
|--|---|----------------------|
| Act Made by the Juvenile Justice Reform Act of 2018 | | |
| National Archives: Code of Federal Regulations for Part 31 – OJJDP Grant Programs | This is the existing regulation implementing the Formula Grants Program authorized under the JJDPA. | Link |