



STATE OF VERMONT
COMPLIANCE MONITORING
POLICY AND PROCEDURE MANUAL

June 2016

TABLE OF CONTENTS

Policies and Procedures Introduction	3
Format for Policies and Procedures Title and Number	4
1.0 Compliance Monitoring Plan	5
1.1 Barriers and Strategies.....	6
1.2 Compliance Violation Procedures.....	8
1.3 Description of Required Compliance Monitoring Tasks.....	11
Compliance Monitoring Timetable.....	12
1.4 Compliance Monitoring Governing Authority.....	18
1.5 Definitions of Terms.....	26
2.0 Overview of the Compliance Monitoring Task	21
2.1 Identification of the Monitoring Universe.....	22
2.2 Classification of the Monitoring Universe.....	24
2.3 Inspection of Facilities.....	27
2.4 Data Collection and Verification.....	32
2.4.1 Deinstitutionalization of Status Offenders.....	36
2.4.2 Sight and Sound Separation.....	38
2.4.3 Removal of Juveniles from Adult Jails and Lockups.....	41
2.5 Annual Compliance Monitoring Reporting Period.....	44
2.6 Annual Method of Reporting Compliance with the JJDP Act.....	45
3.0 Core Requirements and OJJDP Regulations by Type of Facility	46
3.1 Secure and Non-Secure Custody.....	47
3.2 Transferred and Waived Juveniles.....	50
3.3 Court Holding Facilities.....	54
3.4 Other Types of Facilities.....	56
4.0 Certification for Compliance with Title V	60
5.0 OJJDP Published Rates of Compliance	62
6.0 Commonly Asked Compliance Monitoring Questions	64
Monitoring Universe.....	72
Attachment A: Annual Report on the Number of Violations by Facility (sample).....	75
Attachment B: Compliance Violation Form.....	76
Attachment C: Introduction Letter of Monitoring Authority (sample).....	77
Attachment D: Definitions.....	78
Attachment F: Juvenile Holding Log.....	86
Attachment G: VT Title V Certification of Compliance Form.....	87

The State of Vermont gives special thanks to the States of Connecticut, New Hampshire and Colorado for assistance in compiling this manual

POLICIES AND PROCEDURES INTRODUCTION

To monitor by definition (OJJDP) means to watch, observe, check, keep track of, regulate or control the operation of for a special purpose. In this regard, the special purpose is to ensure that the Core Protections of the Juvenile Justice and Delinquency Prevention Act of 2002 are met. The Core Protections are: the Deinstitutionalization of Status Offenders (and nonoffenders), Separation of Incarcerated Adults and Juvenile Offenders and the Removal of Juveniles from Adult Jails and Lockups. To monitor also means to evaluate how well the goals of the JJDP Act are being met and taking remedial action, if and where, it is necessary.

For these monitoring goals the following policy and procedures manual will be used to assist in carrying out these tasks.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) mandates that states participating in the JJDP Act have an adequate compliance monitoring system which includes the following to be completed annually:

- Identification of the Monitoring Universe
- Classification of Facilities
- Inspection of Facilities
- Data Collection and Data Verification

This Compliance Monitoring Policy and Procedures Manual will describe each of these elements in detail and will serve as a reference guide for the Department for Children and Families-Family Services Division (DCF-FS) Compliance Monitor. This manual is a compilation of letters, forms, statutory requirements and procedures developed at the request of OJJDP. The CM policies & procedures can be made available to law enforcement, corrections, and residential care facilities so that they can self-monitor, and train staff.

**FORMAT FOR COMPLIANCE MONITORING POLICIES
AND PROCEDURES TITLE AND NUMBER**

Date Issued: March 2013

Review Date: December 1, 2012 and annually thereafter

Last Review: June 2016

Statement of Purpose:

To establish clear policies and procedures for the purpose of conducting federally mandated compliance monitoring in the State of Vermont under the purview of the Department of Justice, Office of Juvenile Justice and Delinquency Prevention and compliance with the Core Protections of the Juvenile Justice and Delinquency Prevention Act (JJDP). Policies are developed to provide the compliance monitor and the compliance monitoring system with guidance and to establish protocols for providing an adequate system of monitoring for all the facilities that may hold juveniles in the State of Vermont.

Policy:

Each policy will be assigned a number in numerical order beginning with the number 1 (one) and continuing as high as is necessary. If a policy needs to be added to at any time, once approved, it will be assigned the next available number, such as 1.1, 1.2, 1.4, etc.

Procedures:

The compliance monitor will be responsible for developing policies and procedures in draft form as needed. Once the draft form of the policy is completed, it will be forwarded to the Juvenile Justice Specialist for approval. Once at this level the draft policy is either sent back to the compliance monitor for revision or once it is approved it is forwarded the Director of the Juvenile Justice Unit for approval

Attachments

Any forms and/or related materials will be inserted immediately after the applicable policy in this manual.

Appendix any other related materials that is too lengthy to include with the policy.

1.0

COMPLIANCE MONITORING PLAN

Date Issued:	March 2013
Review Date:	December 1 2012, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

Every state is mandated by OJJDP to have a written plan, which provides for an adequate system of monitoring all facilities that could possibly hold youth to ensure that the core protections of the JJDP Act are being complied with.

Monitoring compliance effects eligibility for formula grant funding and participation in programs available through OJJDP. Noncompliance with any of the four core requirements can result in a 20% reduction of the funds awarded to the state. An adequate compliance monitoring system clarifies gaps in the continuum of care and highlights challenge areas in the states juveniles' justice system. The Delinquency Prevention Program under Title V of the JJDP Act requires localities to provide certification of compliance in order to be eligible to apply for these funds.

Policy:

The compliance monitoring plan must describe:

1. The barriers faced in implementing and maintaining an adequate compliance monitoring system and the strategies to overcome these barriers.
2. The procedures that have been established for the state to receive, investigate, and respond to reports of compliance violations.
3. A detailed description of compliance monitoring tasks.
4. The monitoring authority that has been granted in order to perform the compliance monitoring tasks.
5. The definition of terms that will be used when performing compliance monitoring.

Procedures:

The compliance monitoring barriers, the violation procedures, the detailed description of the monitoring tasks and the monitoring authority and the use of federal definitions specifically used in compliance monitoring are addressed in the following policies. The Compliance Monitoring policies and procedures should be reviewed and updated as needed annually by the compliance monitor and the juvenile justice specialist.

1.1

BARRIERS AND STRATEGIES

Date Issue	March 2013
Review Date:	December 1 2012, annually thereafter
Last Review:	June 2016

Statement of Purpose:

A description of barriers that challenge the implementation of the compliance monitoring system as well as strategies to overcome these barriers is necessary to maintain integrity within the compliance monitoring system.

Policy:

The following procedures to identify barriers and the plans to overcome these barriers will ensure that the Division maintains a monitoring system with integrity that is reviewed and updated annually as needed.

Procedures:

1. Annually a portion of the agenda of a State Advisory Group (SAG) meeting will be set aside to discuss the current compliance status, the barriers to compliance and a plan to develop and implement state and local strategies to overcome these barriers. This will be recorded in the SAG meeting minutes. Obstacles to compliance and strategies to achieve compliance will be reported to the Governor and legislature in the SAG Annual Report
2. The compliance monitor and JJ Specialist will submit for SAG discussion and action at the designated meeting a report on the:
 - A. Barriers faced in implementing and maintaining a monitoring system and barriers faced in maintaining compliance with the JJDP Act.
 - B. Recommendations for state and local strategies and plans to overcome these barriers.
 - C. An annual report on the number of juveniles held and the number of violations by the type of facility. At a minimum, reports will be compiled for sheriff and police departments, state police, corrections, and the juvenile detention facility (Woodside).

3. A written plan(s) of action to achieve or maintain JJDP Act compliance may include the following activities:
 - A. Pursue state policy or legislation to overcome barriers to monitoring.
 - B. Offer and provide training and technical assistance to agencies and facilities requesting it, especially those that have committed violations of the Core Protections of the JJDP Act.

See Attachment A: Annual Report in the Number of Violations by Facility (Sample)

1.2

VIOLATION PROCEDURES

Date Issued:	March 2013
Review Date:	December 1 2012, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

After a compliance monitoring system has been established to monitor all of the facilities within the State that may hold juveniles to ensure that the Core Protections of the JJDP Act are being complied with, it is important to then outline the procedures that will be used to collect, receive, investigate, document and respond to reported compliance violations.

The Agency of Human Services has designated the Department for Children and Families the authority to monitor its facilities and contractors. The Department of Public Safety and local law enforcement agencies voluntarily provide information to the Compliance Monitor.

Inspections and/or other tools, which identify incidences of non-compliance or other deficiencies, which may be dangerous to juveniles in secure detention, are only valuable if the compliance monitoring system can take action to correct and/or eliminate the identified problem. Written violation policies and procedures should be made available so all involved parties will know what is expected of them and what action may be taken.

In 1994 Congress stipulated that all communities interested in applying for Title V funding had to first be certified as being in compliance with the four Core Protections (DSO Jail Removal, Sight and Sound Separation and Disproportionate Minority Contact) of the JJDP Act. The JJ Specialist, or staff assigned to Title V programming assures municipal compliance prior to any Title V funding determination.

Policy:

The Vermont Agency of Human Services has been designated by the Governor (Vermont Executive Order # 66) as the single state agency for administering formula grants for the Juvenile Justice and Delinquency Prevention Act. The Secretary of the Agency of Human Services, Commissioner of the State Department of Corrections and Senior Executive in the Department for Children and Families have designated and granted authority to the State's Compliance Monitor to visit and inspect any facility as well as records that may be contained therein associated with juveniles who are detained at the facility. Copies of authorization from the above mentioned individuals follow.

All classified facilities should have available to them through the compliance monitor, the relevant compliance requirements which are contained in Vermont's Guide for Implementing the Core Protections of the Juvenile Justice and Delinquency Prevention Act. The processes for reporting and collecting violations can take several different forms: through the compliance monitor, the facility itself, the general public, child advocacy groups, attorneys, The Disabilities Rights Counsel, or the agency with oversight authority. Very rarely are violations found and reported through any source other than the compliance monitor and the facility/agency itself. The compliance monitor is responsible for the compliance violation investigation and follows up.

Procedures:

1. The compliance monitor will perform statewide compliance monitoring; a detailed description of this process and tasks is contained in these policies.
2. The compliance monitor will be the primary person to discover, investigate and report compliance violations throughout the state. The Compliance Monitor in concert with the Juvenile Justice specialist will determine any such violations. Violations are mostly found through the review of the Juvenile Holding logs. This review may occur either at the facility during a site visit when the compliance monitor reviews the logs there or when the facility forwards annual holding logs to the compliance office.
3. If and when the Agency of Human Services receives an external report of a possible compliance violation, the compliance monitor will be advised and will investigate the alleged violation.

Independent sources may include but are not limited to:

The General Public

The State Advisory Group

The Juvenile Justice Unit

Youth

Public and private agencies

4. The process used to receive, investigate and respond to compliance violation reports is as follows:
 - A. All alleged reports of compliance violations will be turned over to the compliance monitor. The alleged report may be received through an independent source, at a site visit or from review of the Juvenile Holding logs.
 - B. If there is an alleged DSO, Jail Removal or Sight and Sound Violation, the compliance monitor will fully investigate the alleged violation. This will

always involve a review of the juvenile's arrest record or incident. This can either be done by having the agency where the alleged violation occurred forward the arrest report to the compliance monitor or the juvenile's records can be reviewed at the facility or both. This is done to confirm that the alleged violation actually occurred. In some cases, incorrect information is recorded on the Juvenile Holding log and the entry may appear to be a violation. After further investigation, it may be revealed that the times or detaining charge(s) were recorded incorrectly. Once confirmed, all violations will be brought to the attention of the facility administrator or contact person to fully explain why there were violations and what corrective action needs to be taken in order to prevent any future violations.

- C. The compliance monitor will complete a Violation Letter on DCF letterhead describing the violation. It will be mailed to the facility administrator or contact person. A copy of the Violation Letter is placed in the individual facility file.
- D. The compliance monitor will inform the JJ Specialist of all violations, discuss the corrective action plan, and cc the violation letter and subsequent correspondence to the Specialist.

The compliance monitor may conduct more frequent follow up site visits to facilities where non-compliance or risk is present. Juvenile Holding logs from non-compliant or high-risk facilities may be requested more frequently. The purposes for this are to review the juvenile records and provide technical assistance on the core protections of the JJDP Act. By reviewing both the juvenile records and providing technical assistance more frequently it greatly decreases the likelihood of the same violations occurring over and over again during a report period and it makes the facility more familiar with the core protections.

- E. The compliance monitor & or JJ Specialist will provide compliance progress reports to the State Advisory Group at an annual meeting or more often as needed.
5. Juvenile Justice Staff, consisting of the Compliance Monitor, JJ Specialist, DCF Manager, or other State personnel may follow up on a compliance violation with any action that is deemed appropriate.
 6. For internal tracking purpose the violation is noted on the Vermont Compliance Monitoring Universe Spreadsheet.

See Attachment B: Violation Letter (on DCF Letterhead) – Sample

DESCRIPTION OF THE REQUIRED OJJDP COMPLIANCE MONITORING TASKS

Date Issued:	March 2013
Review Date:	December 1 2012, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

An in depth description of the compliance monitoring tasks as well as the identification of the agency responsible for completing these tasks is a necessary component to the compliance monitoring system. The policy contained herein describes in general terms a compliance monitoring system. The compliance monitor in Vermont is employed by the Agency of Human Services, Department for Children & Families and is responsible for monitoring and reporting under the JJDP Act.

Policy:

The compliance monitor and the JJ Specialist will annually review the compliance monitoring tasks that are to be accomplished during the year as outlined in this policy.

Procedures:

1. The compliance monitor will schedule a meeting with his/her supervisor annually for purposes of outlining the monitoring tasks for the year.
2. The JJ Specialist may notify the SAG that members or related sub committee are welcome to attend CM site visit(s).
3. The monitoring tasks, at a minimum, will include:
 - A. Identification of the Monitoring Universe
 - B. Classification of the Monitoring Universe
 - C. Inspection of Facilities
 - D. Data Collection and Verification
 - E. Progress reports, either verbally or in writing to the JJ Specialist and SAG at the regularly scheduled SAG meetings.
 - F. Complete the OJJDP Annual Compliance Monitoring Report. Vermont is on a state Calendar year reporting cycle, so the compliance report is due to OJJDP by July 1st each year.

- G. Other duties and responsibilities as required and deemed appropriate, including training and technical assistance to facilities.

Monitoring Timetable

The following is a monitoring timetable for the Jail Compliance Monitor listing all facilities required to be monitored. It is a detailed breakdown of the monitor's duties to accomplish this task. This document must be reviewed and updated annually with the CM supervisor and the JJ Specialist. Changes reflect the new reporting period requested by OJJDP

October :Identification and modification of the Monitoring Universe, Send out request for Logs, collection, Site Visits conducted.

October through January: Collection of Holding Logs, Investigation of potential Violations, Site visitation, Federal Reports to OJJDP, Review of Policy and Procedures DMC reporting .

November through June : Site Visitation, Addressing Violations, Collecting DMC Data.

January Finalize DMC Reports, Matrices Data and Compliance Report

Identification of the Monitoring Universe

The total Monitoring Universe is defined as all facilities within the State of Vermont, which might hold juveniles pursuant to public authority. At the present time there are 105 facilities within the State that require monitoring. It is necessary to update the universe annually, as there are several small towns in Vermont that do not currently have police departments. These areas are patrolled by state police, sheriff's departments, bordering towns or a combination thereof. When it becomes necessary for towns that do not have police departments to employ a police department they enter the monitoring universe.

The monitoring universe also contains **residential group homes and shelter care facilities** for youth under the jurisdiction of the juvenile court system. These facilities are inspected per CFR and OJJDP CM Guidance Manual requirements for compliance.

Classification of the Monitoring Universe

The classification of the Monitoring Universe is completed and reviewed annually by the Compliance Monitor. Facilities are classified as Secure or Nonsecure, Residential or Nonresidential and Public or Private. This process is ongoing due to the fact that facilities may upgrade or downgrade the physicality of their buildings and/or build new facilities. Changes in the physical structure of the buildings would either be adding or subtracting secure detention capabilities, which in turn would change the classification from nonsecure to secure or vice versa. This is monitored annually through site visits and the Law Enforcement Certification for Nonsecure Classification Survey. The Certification of Nonsecure Classification survey is sent to the agency to be completed

and returned or completed at site visits for all facilities that are documented to be nonsecure from the previous year.

Once the surveys are completed, the information is documented and the surveys are placed in the respective facility file. If there is any change in the facility's status, it is noted and the necessary changes to classification are made.

Inspection of Facilities

At least one-third of all facilities identified in the monitoring universe that may possibly hold juveniles securely are to be inspected annually by the compliance monitor. The Vermont Agency of Human Services has been designated by the Governor (Vermont Executive Order # 66) as the single state agency for administering grants for the Juvenile Justice and Delinquency Prevention Act. The Secretary of the Agency of Human Services, Commissioner of the State Department of Corrections and Senior Executive in the Department for Children and Families have designated and granted authority to the State's Compliance Monitor to visit and inspect any facility as well as records that may be contained therein associated with juveniles who are detained at the facility.

Each facility used by law enforcement, county sheriffs, or state police to securely detain minors shall maintain a lock-up log for all minors securely detained. The log shall contain the identification number, the charge, the date and time locked in secure detention, the date and time released from secure detention, to whom released and the reason for secure detention. The log shall be kept confidential both by the agency or facility, which maintains it, and by the Department of Children and Families which shall receive copies of the log January 1 through December 31st of each year. To ensure that the requirements of this chapter are met, any secure or non-secure facility, which detains minors, shall provide, upon request and in a timely manner, access to the facility for inspection purposes to the AHS compliance monitor. If the facility is required under this section to maintain a log, access to the log shall be provided.

It is best practice that site visits be conducted if at possible more or less between the months of March and November. There are several reasons for this. Since a lot of planning goes into the scheduling of site visits prior to each visit, there is a good chance during the winter months that the visits will have to be postponed due to inclement weather. So as to avoid unsafe driving conditions and to make the best use of time, it is best to schedule site visits during the spring, summer and autumn months. If visits have to be conducted during the winter months, it is best if they are kept to the local area.

The three main reasons to inspect facilities are to confirm the classification (secure or nonsecure and determine who is being held there), assess the sight and sound separation levels throughout the facility and finally, to determine if the record keeping system is sufficient to collect the necessary data to determine compliance with the Core Protections of the JJDP Act.

Prior to the inspection of a facility, the site visit is arranged with the contact person at the facility. When arranging the site visit, the authority that the compliance monitor has to inspect the facility should be cited, an explanation of the reason for the site visit, the day, date and time of the site visit and approximately how long the site visit will take.

A minimum of one hour should be allotted for a site visit for each facility. Depending on logistics, it is best that the total number of site visits be kept between two to four facilities in one day. It is best practice when conducting site visits to divide the state up by counties and inspect facilities that are in close proximity to each other within the same county on the same day. It is important to be respectful of people's time and arrive on time if not a few minutes early to your scheduled appointment. If running late for whatever reason, be courteous, call them and tell them you are running behind schedule.

Once at the facility, request a tour of the entire facility, even though you may have seen it before. There may be some physical changes that have been made since the last visit that are relative to jail compliance. Go through the facility as if you were a juvenile in custody and request to see everywhere a juvenile could possibly be processed and held, in both secure custody (if the facility has secure custody capability) and nonsecure custody. Confirm classification by asking if the facility is secure or nonsecure. If it is a secure facility, what are the secure detention capabilities? If it is for adults only or juveniles only or adults and juveniles? Is it residential or nonresidential? Is it public or private? At the present time, the only private facilities for juveniles in Vermont are nonsecure group homes.

Once classification is confirmed, assess the sight and sound separation levels. Ask how adults and juveniles are kept separate in the secure area(s). Ask for a copy of policies and procedures for the processing of juveniles that are in their custody. If the facility has adult and juvenile cells that are in close proximity to each other, to test the sound separation, it is a good idea to have the person escorting you around the facility to go into an adult cell and you into a juvenile cell, close the doors and see if you can carry on a conversation with each other. Find out how juveniles are processed. Find out where juveniles enter the facility, i.e. sally port, front entrance, side entrance, etc. Find out where the nonsecure areas are (if any) and confirm if status offenders (non-delinquents) are held there. Find out how juveniles are monitored while in custody; are camera/video systems used or do personnel supervise youth while they are in custody?

The third task during an inspection at a secure facility is to collect and confirm information on all juveniles held in secure custody. All juveniles that are held in secure custody are required to be recorded on a Juvenile Holding log.

Most facilities that securely detain juveniles use the Juvenile Holding log that is provided by the Compliance Monitor. Information that is required on the lockup log is the juvenile's name or ID, date of birth, sex, race or ethnicity, the detaining offense, date and time in secure detention and date and time released from secure detention and to whom the juvenile was released to. Most of the facilities that use the Juvenile Holding log form, keep it in the booking/processing area in some sort of binder and it is completed at the time of arrest. If the lockup logs have not been forwarded to the compliance monitor already, this is a good time to collect any logs that need collecting. During this time, compare the Juvenile Holding logs previously received from the facility that are on file to the lockup logs/admission/release records at the facility, to verify their authenticity and accuracy. Any missing information is to be collected at this time as well as correcting any other discrepancies that may exist on the lockup logs. This assists greatly in providing a "check and balance" of the data.

At the completion of the site visit, ask the person who just escorted you around if they have any questions. If they do, do your best to answer them. If you don't know the answer, research it and get back to them with the answer in a timely fashion. Also at the completion of the site visit, explain how they are classified and their separation levels. Explain the Core Requirements as they relate to their facility and if needed, recommend any changes. Explain what happens if there are any violations and the violation procedure. Ask if they need anything from you and offer any training materials including on site technical assistance. Always thank them for their time. Also advise them that you will be sending them a memo stating that they are in compliance or not in compliance establish open lines of communication with as many people as possible. You rely on the data they give you, the data they are willing to give you and you want that data to be as reliable as possible.

After a site visit is completed, it needs to be documented, in the Vermont Compliance Monitoring Universe Spreadsheet This provides easy access to frequency of visits and status of violations at each facility.

Data Collection and Verification

The data collected is for all juveniles that are held securely in the State for one year. The reporting cycle in Vermont runs from January 1st through December 31st. All facilities that held juveniles securely must report this data to the compliance monitor. These facilities include municipal police stations, sheriff's departments, state police, county jails, local lock-ups, state prisons, court holding facilities and colleges and universities (the University of Vermont is the only college/university that currently has secure detention capabilities).

As stated earlier, this data is obtained through the collection of the Juvenile Holding logs. Logs are forwarded to the compliance monitor annually. Letters are sent out to facilities to remind them to forward any Juvenile Holding logs for the specified time period to the compliance monitor as soon as possible. Lockup logs are also collected throughout the year at site visits. Once the logs are collected, their content is verified for proper detaining offenses and correct secure holding times. If any potential violations are found as a result of information obtained from the lockup logs, it is good practice to exhaust all resources to make sure it is in fact a violation. Contact the facility that has the potential violation and advise them of the situation. Go over the situation with them in great detail to make sure all information on the log is correct. This is usually very time consuming, because sometimes they will have to locate the arresting officer to verify the information. However, it is worth the effort as it may avoid a violation. After the information is verified, it is entered into the Jail Compliance Database, as is all data that is obtained via the Juvenile Holding logs. If there is a violation, it is common courtesy to advise the facility by telephone that they have committed a violation, explain the situation and then advise them formally in writing with a violation/noncompliance letter. CC notification to the JJ Specialist. The violation letter should explain which Core Requirement was violated and why. The scenario that led to the violation should be explained in the body of the letter. The letter will contain a an offer of technical

assistance, training and education to assist in preventing any potential future violations. Corrective action suggestions are made to assist in preventing future violations. Facilities Holding Logs are usually forwarded to the compliance office by Mail or e-mail. Facilities that have not securely detained any juveniles throughout the reporting cycle either forward a blank log stating so, send an e-mail advising that no juveniles have been securely detained or a telephone call stating the same. If an agency advises by telephone or voicemail that they did not securely detain any juveniles for the specified time period by that agency, the name of the person and date they called is also documented in the CM spreadsheet.

A running tally is kept of any and all violations committed throughout the reporting cycle. This record should include the first name and last initial of the juvenile, the date of the violation, the type of violation and the facility that committed the violation.

The data obtained throughout the reporting cycle, both by lockup logs and site visits, is analyzed to determine the progress toward the Core Requirements of the JJDP Act; Deinstitutionalization of Status Offenders, the adequacy of Sight and Sound Separation between adults and juveniles. If there are any violations that result from the site visit a Violation Letter is completed as well and is placed in the agency's folder. An official letter of compliance or noncompliance, as the case may be, is sent to every agency after a site visit. It is best practice if the letter is sent within a week after the site visit. It is recognized that situations beyond one's control may prevent this from being completed in a timely manner, one hundred percent of the time. An example of this would be if you were still awaiting information from an agency to determine their compliance or noncompliance with the Core Protections.

It is best practice to leave the last two to three months of the Calendar year to tie up any loose ends and conduct any follow up site visits that have come up as result of data obtained earlier in the reporting cycle. Time should also be set aside during the last two to three months of the year for any administrative tasks including updating policies and procedures, updating the compliance manual, proposing any legislative changes as well as planning the site visit schedule for the reporting cycle for the following year. The first two to three months of the new reporting period should be reserved for collecting and documenting the data from the previous reporting period as well as completing the annual compliance monitoring report.

Monitoring Report Period

The State of Vermont uses January 1 through December 31, the Calendar Year as its monitoring report period. During this period, all required data for facilities that report data is collected and documented to determine compliance or progress toward compliance of the Core Requirements of the JJDP Act.

Education

Education and training (technical assistance) on the four Core Protections of JJDP Act will be provided as required and needed to any agency/facility in the monitoring universe who requests it or that the CM determines would benefit from it.

Method of Reporting

After the data for the current reporting period is collected, reviewed and analyzed, the Annual Compliance Monitoring Report will be completed using the Microsoft Excel Template provided by OJJDP. This report should be made available to the JJ Specialist and the SAG at least 4-6 weeks in advance of the date it is due to OJJDP. This report will be submitted to OJJDP by July 1 each year.

Violation Procedures

When an agency/department commits a violation of the Core Requirements of the JJDP Act, a memo citing the violation is sent directly to the contact person at the agency (usually the chief of police). Either a request is made in the memo to the agency to take corrective action and advise DCF as to what the corrective action is so the violation does not occur again, or an acknowledgement of the corrective action that has already been reported to DCF. In most cases, this is discussed with the agency contact person and the compliance monitor at least via telephone (if not face to face also at a follow up site visit to the facility) prior to the memo being sent to the agency that committed the violation. A copy of the violation memo is placed in the agency's file.

See Attachment C: Introduction Letter of Monitoring Authority (sample)

1.4

COMPLIANCE MONITORING AUTHORITY

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

The agency responsible for compliance monitoring, the VT AHS, should have legal authority to monitor all facilities within the State of Vermont that could hold juveniles under public authority. The monitoring authority should be sufficiently broad to allow the compliance monitor to require each facility that could be classified as secure to be inspected for purposes of classification, to keep specific juvenile admission and release records and allow the compliance monitor access to review these records at time periods during the year.

Policy:

1. Pursuant to authority of the Agency of Human Services, the DCF FS Division has the right to develop and enforce standards for all secure facilities that might hold juveniles, to inspect facilities for compliance, and to cite facilities for violations of the core protections.
2. The compliance monitor should be allowed to review records that contain detention information with the agreement that the compliance monitor will keep confidential information confidential and will not knowingly divulge any information, which might identify a specific child except as may be required to protect the child.

Effective compliance monitoring and enforcement can only be implemented when the agency's legal responsibility is defined clearly and known to all required parties

Procedures:

1. Vermont Executive Order #66 gives the compliance monitor authority to inspect facilities and review their records when a juvenile is held securely. The compliance monitor will at all times abide by the rules of confidentiality of juveniles' names except as may be required to protect the child.
2. The compliance monitor will make available at all site visits a copy of the document(s) that define the authority for compliance monitoring. A sample introduction letter is attached to this policy in case facility requests verification from the Juvenile Justice Unit Director that compliance monitoring is a function of the Division.

1.5 DEFINITIONS OF TERMS

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

When classifying facilities and agencies and identifying the types of offenses and behavior of the juvenile to be counted for monitoring purposes, the definitions of terms used must be the same as those found in the Formula Grant Regulations.

Policy:

The Juvenile Justice Unit will adopt and follow OJJDP definitions for compliance monitoring. These definitions will be used exclusively for compliance monitoring and when providing training and technical assistance.

Procedures:

1. When identifying and classifying agencies and facilities for the compliance monitoring universe, the following definitions will be used. They are located in the respective section of the JJDP Act CFR
 - A. Secure Custody 31.304(b)
 - B. Adult Jail 31.304(m)
 - C. Adult Lockup 31.304(n)
 - D. Facility 31.304
 - E. Juvenile who is accused of having committed an offense 31.304(d)
 - F. Juvenile who has been adjudicated as having committed an offense 31.304(e)
 - G. Status offender 31.304(h)
 - H. Non-offender 31.304(i)

- I. Private 31.304(a)
 - J. Sight and Sound Separation 31.303(d)(1)(l)
2. The following definitions are located in the JJDP Act:
- A. Secure detention facility 42 U.S.C. 5603 [103](12)(A)(B)
 - B. Secure correctional facility 42 U.S.C. 5603 [103](13)(A)(B)
 - C. Public agency 42 U.S.C. 5603 [103](11)
 - D. Contact 42 U.S.C. 5603 [103](25)
 - E. Adult Inmate 42 U.S.C. 5603 [103](26)
3. OJJDP Compliance Monitoring Guidance Manual
- A. Secure Custody, page 6
 - B. Nonsecure Custody, pages 9 and 10
 - C. Court Holding, page 30

The definitions from the Consolidated Federal Regulations, the JJDP Act and the OJJDP Compliance Monitoring Guidance Manual will take precedence and will be used for compliance monitoring purposes.

See Attachment D: Definitions

Appendix: JJDP Act 2002
1996 OJJDP Consolidated Regulation
OJJDP Compliance Monitoring Guidance Manual

2.0

OVERVIEW OF THE COMPLIANCE MONITORING TASKS

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

The JJDP Act states in section 223(14) that states must provide for an adequate system of monitoring jails, detention facilities, correctional facilities and nonsecure facilities to ensure that the core protections of paragraphs (A)(11) DSO; (12) Separation; and (13) Jail Removal are met and for annual reporting of the results for such monitoring to the OJJDP Administrator.

Policy:

The major compliance monitoring tasks are as follows and are addressed in the policies that follow:

1. Identification of the Monitoring Universe
2. Classification of the Monitoring Universe
3. Inspection of facilities
4. Data collection and verification
5. Communication of findings to JJ Specialist and designated department personnel

Reporting and violation issues will also be addressed in these policies :

6. The OJJDP Compliance Monitoring report period
7. The method of reporting
8. Compliance violation issues and the legislative and administrative procedures used to enforce compliance

Procedures:

To complete the four compliance monitoring tasks and three additional tasks, refer to the policies that follow this policy.

2.1

IDENTIFICATION OF THE MONITORING UNIVERSE

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidation Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

OJJDP requires states participating in the JJDP Act to establish and maintain an adequate monitoring plan and system for purposes of compliance with the Act and for OJJDP Audits. Identification of the monitoring universe, classification of facilities in the monitoring universe, inspection of facilities and data collection and verification are the four compliance monitoring system elements that OJJDP requires be completed annually. This policy addresses the identification of the monitoring universe.

Policy:

The compliance monitor will maintain a Compliance Monitoring Universe Spreadsheet which will list all of the facilities in the state, which might hold juveniles pursuant to public authority. The Compliance Monitoring Universe Spreadsheet will be located in the Shared Area of the Juvenile Justice Folder under the sub folder “Compliance Monitoring” and will be updated annually as required to maintain current information on all facilities within the monitoring universe.

As is defined in the **Federal Register, May 31, 1995, page 28445**, the identification of the monitoring universe refers to the identification of all residential facilities, which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned and operated by public or private agencies.

As defined in the **OJJDP Compliance Monitoring Guidance Manual, page 35**, “This refers to the identification of all facilities which might hold juveniles pursuant to public authority.” This list should include adult jails and lockups, correctional facilities, juvenile detention centers, halfway houses, group homes, mental health facilities, chemical dependency programs and detoxification centers, including facilities owned or operated by public or private agencies.

Procedures:

1. In January of each year the compliance monitor will update the Compliance Monitoring Universe Spreadsheet. This list contains all the police departments in the State, names of chiefs of police, addresses and telephone numbers. This list also contains sheriffs, state police and state prison contact information. This list will use Bold Print to denote Secure Holding Capacity.
2. The Compliance Monitoring Universe Spreadsheet will be made available for annual reporting, OJJDP compliance monitoring audits, or on request.
3. The identification of the monitoring universe is an ongoing process. During site visits, the compliance monitor should ask questions during the interview with the agency contact person regarding any proposed new construction, remodeling of the current facility. When speaking with a sheriff's department, the compliance monitor should ask if there are any towns with new police departments or if there are any that are in the planning stages or being proposed. This should be documented and the compliance monitor should contact the town directly to obtain any additional information. If a new police department is confirmed, it will be added to the monitoring universe, scheduled for a site visit for inspection, classification and data collection and verification. A facility file folder will be set up for the agency.

Appendix: Monitoring Universe

Master Agencies List (police departments, sheriffs, state police, Group homes, Woodside , department of corrections, prisons)

2.2

CLASSIFICATION OF THE MONITORING UNIVERSE

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

OJJDP requires that states participating in the JJDP Act establish and maintain as adequate system of monitoring and plan for compliance with the Act and for OJJDP compliance audits. Identification of the monitoring universe, classification of facilities in the monitoring universe, inspection of facilities and data collection and verification are the four compliance monitoring system elements that OJJDP requires be completed annually. This policy addresses the classification of the monitoring universe.

Policy:

The compliance monitor will annually classify and/or reclassify all facilities listed in the Monitoring Universe within the Compliance Monitoring Universe spreadsheet.

As defined in the **Federal Register, June 20, 1985 page 25558**, “This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, an adult correctional facility, an adult correctional institution, jail, lockup or other type of secure or nonsecure facility.”

The OJJDP Compliance Monitoring Guidance Manual, page 35, states: “This is classification of all facilities in the state that might hold juveniles pursuant to public authority. Classification must determine the facility type (e.g. juvenile detention or correctional facility, adult correctional institution, jail, lockup or other type of secure or nonsecure facility). Moreover, classification also includes determining whether a facility is public or private, residential or nonresidential and whether the population is juvenile only, adult only or juvenile and adult. While facilities can successfully self-report their own classification, the final classification of a facility must be verified by the Compliance Monitor while on-site.”

For purposes of this Policy, and per federal requirements, there will be three categories for classification of each facility:

1. Public or Private (owned by State, local agency or owned by a private nonprofit or for profit agency)
2. Is it secure or nonsecure
3. Is it residential or nonresidential (setup with a separate living area for overnight accommodations)

Please refer to the Definitions of Terms policy for definitions of the additional terms which may be needed for classification purposes:

1. Secure
2. Facility
3. Adult jail
4. Adult lockup
5. Secure detention facility
6. Secure correctional facility
7. Private and public agency
8. Temporary holding facility
9. Court holding facility
10. Staff secure facility

For purposes of this policy and for classification purposes, only OJJDP definitions will be used.

Procedures:

1. All facilities listed in the compliance monitoring universe must be classified pursuant to the above definitions (secure or nonsecure, public or private, residential or nonresidential).
2. Based upon the classification and date of last site visit, the list of facilities requiring a site visit during the monitoring year will be generated.

3. The classification of the current facilities will and/or may have occurred during the previous monitoring year. For example, while conducting a site visit to a sheriff's department, the compliance monitor may have learned of a new court holding facility that was recently constructed. This is added to the compliance monitoring universe and a scheduled for a site visit as soon as possible. Also the compliance monitor may become aware of a new police department that has just become operational, or an existing facility that has undergone construction or renovation. This is added to the compliance monitoring universe and scheduled for a site visit as soon as possible.
4. The classification of facilities is not a one-time occurrence at a specified time during the year. Instead, it is an ongoing process. Classification is verified through site visits as required.
5. When an existing facility is re-classified, it is documented in the individual facility file and in the compliance monitoring universe. The facility is informed in writing of the re-classification and meaning in re: JJDPa regulation and monitoring.
6. The compliance monitor will annually classify county jails; Correctional Centers, court holding facilities, secure lockups and juvenile detention facilities as public, secure facilities that may be used for the incarceration of juveniles and/or adults. These facilities are subject to annual site visits and data collection and verification.
7. Law Enforcement Certification of Nonsecure Classification Surveys will be sent to or completed at site visits to all facilities that are classified as being nonsecure. Any changes in classification that result from the data obtained from site visits and the survey will be documented on the Master Monitoring Universe List and on the individual facility folder. Once obtained the surveys will be placed in the individual facility file folder.
8. State statutes regulating admissions to adult correctional facilities and juvenile correctional facilities should also be placed in the Compliance Monitoring Universe Files.

2.3

INSPECTION OF FACILITIES

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

Inspection of facilities is required to classify according to federal regulations and to determine whether or not adequate sight and sound separation exists between juveniles and adult offenders in secure facilities. These inspections are necessary to provide the core protections that are required by the Act and to determine whether or not adequate data are maintained to determine compliance with the three mandated core protections. The inspection process should include a way of reporting compliance with the separation core protection for each secure facility, which holds both juvenile and adult offenders. Reports on each facility's compliance or noncompliance will be made available to the facility as a record of findings of the inspection. Each facility/agency will have an individual file folder, kept in the compliance monitor's office, called the Facility File. Each individual facility file will contain:

1. Correspondence with the facility
2. Sight and Sound Separation Checklist
3. Nonsecure Certification Form (if applicable)
4. Copy of Violation Letter(s) sent to the facility
5. Facility Floor plan/layout (if available)
6. Copies of Juvenile Holding Logs

Facility files will be kept locked so as to assure protection of confidential juvenile identification information.

When facility files need to be culled, staff will assure that data for at least five years of monitoring be kept available on site at the CM office / department. Older files shall be archived.

It is important that all facility administrators or contacts be provided with all applicable information on compliance with the JJDP Act and related regulations. All Facilities will receive a Summary of The Juvenile Justice and Delinquency Prevention Act: Adult Jails and Lockups as well as Definitions

1. An overview of the JJDP Act and purpose of the core protections.
2. The federal definition of terms used exclusively by the compliance monitor
3. An explanation of the core protections and how they relate to the different types of facilities. This should include what constitutes a violation in adult jails and lockups, court holding facilities and juvenile detention centers.
4. An explanation of secure and nonsecure custody and how the core protections relate to both secure and nonsecure custody.
5. A sample Juvenile Holding log.
6. The state and local consequences of noncompliance with the JJDP Act.
7. Access to the state CM policies and procedures manual via electronic link. (to be established 2014)

Process:

1. A review of the physical accommodations to determine whether it is a secure or nonsecure facility.
2. A walk through or tour of the facility as if the compliance monitor was a juvenile “in custody” to determine the level of sight and sound separation between juveniles and incarcerated adults. At the conclusion of the tour, it is important to ask, “So I have seen every room that I could be held in if I was a juvenile?”
3. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with Section 223(a)(11), (12), (13) and (22) of the JJDP Act.
4. An exit interview with the facility contact person to discuss site visit findings and concerns, discuss ways to achieve compliance if issues exist, provide any requested DCF materials and answer any other questions or concerns the contact person may have.

The following guidelines will be used to determine which facilities will receive a site visit/inspection:

The basic requirement per OJJDP regulations is that states should have a statistically sound way of inspecting at least 10% of the facilities annually. However, data on all juveniles securely detained must be collected from 100% of the facilities.

<u>Type of Facility</u>	<u>Site Visit / Inspection</u>
Adult Correctional Facilities	Classified as secure. In Vermont, they are public, adult only facilities. Only certified, transferred or waived, felony-level (direct file) youth may be detained or sentenced to adult correctional facilities. Statutes and judicial rules prohibit the sentencing of any juvenile not filed on as an adult; this may also be enforced through DOC admission policies. Site visits/inspections are done at the rate of at least 10% annually and 100% within three years.
Juvenile Correctional Facilities	Classified as secure. In Vermont it (there is only one) is a public, juvenile only facility. VT Statute states that only adjudicated delinquents can be sentenced or incarcerated to secure facilities. Inspected annually for DSO and separation.
Juvenile Detention Centers	Classified as secure. In Vermont it (there is only one) is a public, juvenile only facility. Inspected annually for DSO and separation.

Adult jails and Lockups Temporary holding facilities	Classified as secure or nonsecure. Public or private. Juveniles and adults. Secure facilities have site visits/inspections at a rate of at least 10% annually and 100% within three years. Nonsecure facilities have site visits/inspections at a rate of at least 10% annually and 100% within three years. Nonsecure facilities that are not scheduled for an annual site visit will be sent a certification of nonsecure custody survey, which is required to be completed and returned. Facilities that do not complete and return the survey will be contacted by the compliance monitor via telephone and the information needed to complete the survey will be obtained by telephone interview and recorded on the survey by the compliance monitor.
Group homes Foster homes Shelter cares	Classified as nonsecure. Public or private, for juveniles only. Site visits and inspections are conducted annually by the DCF Residential Program Specialist. CM conducts an annual survey of all facilities with the DCF Residential Licensing Unit Director or designee to assure that security status of facilities has not changed.
Staff Secure group homes	Classified as nonsecure, Site visits occur 10% annually and 100% within three years.
Airports	Classified as secure or nonsecure. Public or private. Juveniles and adults. Currently in Vermont there is one airport that meets the criteria to be included in the monitoring universe.

Procedures:

1. At least 5 days in advance, the compliance monitor will advise the facility contact person the date and time of the site visit. If the date and time are not convenient, another date and time will be scheduled. The compliance monitor will be responsible for maintaining records of when facilities were visited. This will be included with the data obtained for that monitoring year with the annual OJJDP compliance monitoring report.
2. At all site visits a Site Visit Information Sheet will be completed and will be kept in the individual facility file folder. (See attachment) The compliance monitor will determine how records are kept at the facility on juveniles that are held securely and will verify that the records are accurate. OJJDP requires data verification, which is unique to each facility, however the compliance monitor should be able to verify data by reviewing a juveniles' individual arrest record. A review of the records should be conducted to ensure all facilities keep records consistent with OJJDP rules and regulations and should include at a minimum:
 - A. Name or ID number
 - B. Date of birth/sex/race/ethnicity
 - C. Most serious detaining offense
 - D. Date and time placed in secure detention
 - E. Date and time released from secure detention
 - F. Name and relationship of person juvenile was released to
3. At all site visits of facilities that securely detain adults and juveniles, a Sight and Sound Separation Checklist will be completed (see attachment) and a copy kept in the individual facility file folder. Sight and sound separation questions should be asked at all types of facilities, including those that only hold juveniles. Copies of policies and procedures on how the facility ensures sight and sound separation between adult and juveniles should be obtained and placed in the facility file folder.

Types of questions that should be asked include:

- A. Where are adults inmates at all times, in all areas when juveniles are in the facility;
- B. Are adult trustees used in the facility and if so for what purpose;
- C. Are juveniles supervised at all times;
- D. What areas are dedicated for juvenile use;
- E. How is the juvenile brought into the facility and how are they processed through the facility;
- F. Is time-phasing used (using the same area for both adults and juveniles just not at the same time);

G. Are policies in place to prohibit contact between adults and juveniles (obtain copies);

H. How are special population needs served (suicidal, intoxication)

The separation levels will be documented on the Sight and Sound Separation Checklist. Document secure and nonsecure areas that are used for juveniles. Obtain a copy of the facility's layout or floor plan. If they don't have one available to make a copy of, draw one by hand.

4. The compliance monitor will provide technical assistance to the facilities that are not in compliance with record keeping and/or sight and sound separation requirements. The compliance monitor should tell agencies that they are available to review proposed facility plans prior to construction to ensure that sight and sound separation will be adhered to.

In any case where there is lack of cooperation by an agency in following OJJDP system requirements, it will be brought to the attention of the JJ Specialist, the SAG, and the DCF administration, as needed for further action.

5. All facilities that are subject to inspections will also be subject to data collection and verification if juveniles are being held securely.

See Attachment E: Site Visit Information Sheet
 Sight and Sound Inspection Checklist
 Law Enforcement Certification of Nonsecure Classification
 Form

2.4

DATA COLLECTION AND VERIFICATION

Date Issued:	March 2013
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Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

It is necessary to check each facility's admission and release records to obtain accurate information to determine compliance with sections 223 (11), (12) and (13) of the JJDP Act. On site data collection and verification increases the accuracy and validity of the information. The compliance monitor with document on the Site Visit Information Sheet how the data is collected at the facility, i.e. lockup logs, IMC, Crimestar or other computer system)

Policy:

The compliance monitor will be responsible for collecting and verifying data on every juvenile held in those facilities subject to inspections following OJJDP rules and regulations on data collection. Every effort will be made to collect data on juveniles held securely within three months of the close of the monitoring year. The calendar year, January 1 through December 31 will be used for each monitoring cycle. The data sets below will be obtained:

A. Juvenile Detention Centers and Correctional Facilities (Woodside)

1. Accused status offenders held for a period of time greater than 24 hours exclusive of weekends or holidays, excluding those held as runaways pursuant to the Interstate Compact and those held pursuant to the Youth Handgun Safety Act or a similar state law. (These juveniles are violations of the DSO core requirement).

2. Adjudicated status offenders held for any length of time. (These juveniles are violations of the DSO core requirement).
3. Out-of-state runaways held over the 24-hour reporting exception, excluding those held pursuant to the Interstate Compact. (These juveniles are violations of the DSO core requirement).
4. Federal wards held over the 24-hour reporting exception. (OJJDP excludes them if the allowable rate is exceeded).
5. Nonoffenders held for any length of time. (All nonoffenders held securely are DSO violations).
6. The total number of juvenile offenders held pursuant to the Youth Handgun Safety Act or similar state law. (These juveniles are not violations, but the total number is reported to OJJDP in the annual compliance monitoring report).

B. Adult Jails and Adult Lockups

1. Accused status offenders and nonoffenders held for any length of time. (These juveniles are violations of the DSO and Jail Removal core requirements. If a status offender or nonoffender is held securely for any period of time, they count as two violations).
2. Adjudicated status offenders and nonoffenders held for any length of time. (These juveniles are violations of the DSO and Jail Removal core requirements. If a status offender or nonoffender is held securely for any period of time, they count as two violations).
3. Adults and juveniles held in secure detention that are not sight and sound separated from each other. (These are violations of the Separation core requirement.)
4. Adjudicated juvenile criminal type offenders held securely in excess of six hours prior to or following a court appearance or for any period of time not related to a court appearance. (These juveniles are violations of the Jail Removal core requirement).
5. Accused juvenile criminal type offenders held for less than six hours for purposes other than identification, investigation, processing, release to parent(s), transfer to court or transfer to a juvenile facility following initial custody. (These juveniles are violations of the Jail Removal core requirement).
6. Juveniles held securely in an adult jail or lockup pursuant to public authority as a disposition or as a means to correcting their behavior and are in sight and sound contact with incarcerated adults. (These juveniles are

violations of the Separation core requirement. Depending on the situation this can also be a Jail Removal core requirement violation).

C. Adult Correctional Facilities

Any juvenile brought inside (into the secure area) an adult correctional facility pursuant to public authority as a disposition or as a means of correcting their behavior. (These juveniles are violations of the Separation core requirement). VT statute prohibits juveniles under the age of 18 that have not been charged or convicted of a felony from entering adult corrections facilities. Each facility has signage warning of this prohibition.

Procedures:

1. Adult Jails and Adult Lockups

A. During site visits/inspections, the compliance monitor will collect and verify data on juveniles held securely. Any juveniles that were securely detained are entered into the DCF Jail Compliance Database, which is used to generate the information required to complete the annual compliance monitoring report. The monthly totals of juveniles securely detained is also tallied on the yearly secure log spreadsheet.

1. Site visits will be scheduled so that approximately one third of all facilities are visited annually. This will allow for the OJJDP mandated 100% of all facilities to be visited within a three-year period.
2. Facilities that frequently hold juveniles should be visited more frequently, as well as facilities that have had or continue to have violations of the core protections of the JJDP Act.
3. Time should be allowed at the end of the calendar year after all site visits have been completed to return to any facilities that require follow up visits. This can be for a multitude of reasons; including data collection, compliance issues and/or technical assistance.

B. Juvenile Holding Logs, (see attachment) will be reviewed during site visits at every facility that is mandated to keep lockup logs. The logs should document each juvenile that is securely detained. Juvenile Holding Logs should be filled out each time a juvenile is placed in secure detention by the arresting officer. The compliance monitor will review the logs at site visits and verify them for accuracy and authenticity. Verification should include reviewing the arrest record or case file on a sample of entries to determine if the time in and out of secure custody is correct and to determine if the most serious charge is listed.

C. In cases where additional information is required, the compliance monitor will

verify the log entries against individual case files at the facility or at the court.

Additional sources of information may include DCF.

- D. The compliance monitor will retain copies of the Juvenile Holding Logs.
2. Juvenile Detention and Correctional Facilities (Woodside)
- A. Vermont has one juvenile detention and correctional facility, which is Woodside, located in Colchester, Vt. This facility serves two populations of youth, detention and corrections.
 - B. When a juvenile offender is placed at Woodside, their information is recorded into the Woodside database.
 - C. The juvenile's legal status (status offender or delinquent) will be verified by checking the DCF computer database. Since Vermont does not use the VCO exception, if any status offender is securely detained at Woodside, it will be verified. If it is confirmed as a DSO violation the Woodside Director, the Director of the district office and / or Judge that admitted the youth, the JJ Director, and the JJ Specialist will be notified.
3. Other Facilities
- A. Other facilities classified as secure, public or private, juvenile facilities will be Subject to the same data collection sets as juvenile detention centers.
 - B. Other facilities classified as secure, public or private, juvenile or adult facilities, will be subject to the same procedures and data sets as jails and lockups.

See Attachment F: Juvenile Holding Log (sample)

2.4.1

DEINSTITUTIONALIZATION OF STATUS OFFENDERS / DSO

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

The JJDP Act states that no status offenders or nonoffenders may be held in secure facilities. However the JJDP Act provides statutory exceptions and the federal regulations provide a regulatory exception. Both exceptions only apply to Juvenile Detention Facilities. The clear intent of the Act is that these are exceptions and not the rule.

Intent of the DSO Core Requirement

The DSO Core Requirement has been part of the JJDP Act since the Act's inception since 1974. Its principles are:

- Holding status offenders and nonoffenders in secure custody may be a means to an end, but it is inappropriate for the handling of juveniles who have not engaged in any criminal behavior.
- Historically, when status offenders have been handled as delinquents they have been placed in environments that lead to physical and emotional harm.
- The punishment of status offenders and abused and neglected children (nonoffenders) is a continuation of the cycle of mistreatment.

The JJDP Act does not ignore the issues with status offenders and nonoffenders. Instead, the Act supplies federal funds to states that meet the core requirements to develop an in depth continuum of care. The JJDP Act encourages creating and implementing community based treatment, diversion and delinquency prevention programs as appropriate, cost effective alternatives to secure confinement. Maintaining this requirement promotes policies concerning status offenders and nonoffenders and it promotes the distinction in treatment strategies for this population as opposed to the more serious juvenile offender.

OJJDP, which regulates compliance, provides for two primary types of exceptions, statutory and reporting exceptions. Reporting exceptions are violations which federal regulations allow states to subtract from the total number of violations by regulatory definitions. When OJJDP takes no stance on an issue, reporting exceptions define the limited situations by which a state will not be penalized. Statutory exceptions are defined in the JJDP Act and established by Congress and their interpretation is defined by statute.

Statutory Exceptions

There are three statutory exceptions. The first is possession of a handgun (Youth Safety Handgun Act), the second is the Valid Court Order or VCO (not used in Vermont) and the third is out of state runaways when held pursuant to the Interstate Compact. For purposes of compliance, statutory exceptions allow states to remove from consideration offenses that constitute the violation of a Valid Court Order or a violation of Section 922(X) of Title 18 or similar state law (handgun possession).

2.4.2

SIGHT AND SOUND SEPARATION

Date Issued:	March 2013
Review Date:	December 1 2012, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

Provides that no juvenile will be confined in situations where they have contact with incarcerated adults in secure custody status. The exact wording in the JJDP Act is: “juveniles alleged to be or found to be delinquent, as well as status offenders and nonoffenders, will not be detained or confined in any institution in which they have contact with adult inmates.” The JJDP Act of 2002 further requires that “there is in effect in the state a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, to have been trained and certified to work with juveniles.”

Intent of the Separation Core Requirement

This requirement has been part of the JJDP Act since its inception in 1974. It was passed by Congress in response to the fact that juveniles placed in adult facilities where they had contact with adult inmates and correctional staff were frequently victims of physical, mental, sexual and emotional abuse. It was also discovered that juveniles in contact with adult prisoners were exposed to the tools and training necessary to engage in criminal behavior.

In addition to protecting juveniles against abuse and corruption, sight and sound separation reinforces acceptable professional guidelines. The separation of juveniles from adults allow for the immediate mobilization of effective, appropriate services for juveniles. The separation requirement maintains the safety of juveniles while focusing attention on their diversion to community resources.

The American Correctional Association, the American Bar Association, and the Bureau of Indian Affairs support standards requiring separation, therefore, the sight and sound separation requirement represents the minimum standard for safe jail policy.

Separation does not apply, nor do any of the requirements apply, to juveniles direct filed, certified or waived to adult court as felons. In VT, juveniles direct filed to adult court as misdemeanants are treated as delinquent youth and protected by the JJDP.

The consolidated federal regulation states: “The term contact is defined to include any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. A juvenile offender in a secure custody status is one who is physically detained or confined in a locked room or other area set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being placed in such a room or area and/or from being physically secured to a cuffing rail or other stationary object. **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. Separation must be accomplished architecturally or through policies and procedures in all secure areas of the facility, which include, but are not limited to, such areas as admissions, sleeping, and shower and toilet areas. Brief and inadvertent or accidental contact between juvenile offenders in a secure custody status and incarcerated adults in secure areas of a facility that are not dedicated to use by juvenile offenders and which are nonresidential, which may include dining, recreational, education, vocational, health care, sally ports or other entry areas, and passageways (hallways), would not require a facility or the State to document or report such contact as a violation. However, any contact in a dedicated juvenile’s area, including any residential area of a secure facility, between juveniles in a secure custody status and incarcerated adults would be a reportable violation.” Juveniles are not to have any contact with incarcerated adults while they are in secure custody. Sight & Sound separation does not apply during secure transport by law enforcement.

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 juvenile offenders.

A juvenile offender in secure custody status is one who is physically detained or confined in a locked room or other area set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. It may result from being placed in such a room or from being handcuffed to a stationary object or cuffing rail.

Separation must be achieved architecturally or through policies and procedures in all secure areas of the facility, which include, but are not limited to:

Admissions, Sleeping, Shower and toilet areas

Brief and accidental contact between juveniles and incarcerated adults in secure areas of the facility that are dedicated to use by juvenile offenders and which are nonresidential would not require a facility or state to report a violation. Those areas include:

Dining, recreational, educational, vocational, health care, sally ports or other entry areas and passageways (hallways)

Any contact in a dedicated juvenile area, including any residential area of a secure facility, between juveniles in a secure custody status and incarcerated adults would be a violation.

Added during the 2002 reauthorization is a prohibition of “Scared Straight or Shape Up” type of programming. In accordance with current OJJDP policy and proposed regulation, the state must assure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section or an adult jail, lockup, or correctional facility as a disposition of an offense or as a means of modifying their behavior.

2.4.3

REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCKUPS

Date Issued:	March 2013
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Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual
Vermont Statute	33 V.S.A. § 5292. Detention in adult facilities of minors charged or adjudicated as delinquents

Statement of Purpose:

The JJDP Act states: “Provide that no juvenile shall be detained or confined in any jail or lockup for adults.” There are two reporting exceptions that Vermont uses; they are contained in the consolidated federal register. The first states that accused criminal-type offenders may be held in a sight and sound separated area for up to 6 hours for processing purposes only. The second states that alleged or adjudicated juvenile criminal-type offenders may be held for up to 6 hours prior to or following a court appearance.

Intent of the Jail Removal Core Requirement

The Jail Removal requirement was added to the JJDP Act in 1980, in part as a method of addressing the unintended consequence of the separation requirement. In order to meet the separation requirement, many juveniles were held in solitary confinement for long periods of time. Research indicated an increase of suicides of those juveniles held in adult jails versus juvenile detention centers.

In order to provide consistent protection of juveniles, the sight and sound separation requirement necessitated the addition of the jail removal requirement. The removal of juveniles from adult jails and lockups is supported by widespread consensus on the appropriate handling of juveniles.

Juveniles held in adult jails and lockups remain at risk for physical, mental and sexual abuse by adult inmates. In addition, they are exposed to and educated about how to become better criminals.

The National Council on Crime and Delinquency, the Coalition for Juvenile Justice, the National Sheriffs 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 children.

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 public safety and specific evaluation and treatment needs of juveniles.

Statutory Exception

Juveniles who are waived into adult court, or their case is filed directly in adult court for felony-level charges are not considered juveniles under the JJDP Act and are therefore excluded from these regulations.

Reporting Exception - Six Hour Rule

Juvenile delinquents (accused and adjudicated) may be held (if separated from incarcerated adults) for up to six hours for identification, processing, and to arrange for release to parents or transfer to a juvenile facility. They may also be held an additional six hours following an initial court appearance. This exception only allows for the short-term secure holding of juvenile offenders for the purposes of identification, processing, investigation and to arrange release. Prohibited are juveniles sentenced to the jail or lockup. The purpose of this exception is to detain juveniles only long enough to “process” their case.

A. Six Hour Rule

The six-hour clock starts the moment a juvenile is placed into secure custody status. Once the clock starts it cannot be turned off, even if the juvenile is removed briefly from the locked setting (bathroom break, interview, etc.)

The Six-Hour Rule DOES NOT APPLY when:

1. The juvenile is placed into a locked squad car; or
2. The juvenile is handcuffed to him or herself; or
3. The juvenile is in a secure booking area for processing purposes and is under continuous “in-person” supervision and is removed from the secure booking area immediately following the booking process; or
4. The juvenile is placed into an unlocked room with freedom of movement from the facility.

B. The six hours before and after a court appearance cannot be “traded.” The rules allow for up to six hours before court and up to six hours after court. You may not detain a juvenile for four hours before court and then eight hours after court.

Juveniles in non-secure custody are not subject to the OJJDP core protection regulations

§ 5292. Detention in adult facilities of minors charged or adjudicated as delinquents

(a) A minor charged with a delinquent act shall not be detained under this chapter in a jail or other facility intended or used for the detention of adults unless the child is alleged to have committed a crime punishable by life imprisonment and it appears to the satisfaction of the court that public safety and protection reasonably require such detention.

(b) A minor who has been adjudicated as a delinquent child shall not by virtue of such adjudication be committed or transferred to an institution or other facility used primarily for the execution of sentences of persons convicted of a crime.

(c) The official in charge of a jail or other facility intended or used for the detention of adult offenders or persons charged with crime shall inform the court immediately when a minor who is or appears to be under the age of 18 years is received at the facility other than pursuant to subsection (a) of this section or section 5293 of this title and shall deliver the minor to the court upon request of the court or transfer the minor to the detention facility designated by the court by order. (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009.)

2.5

**ANNUAL COMPLIANCE MONITORING
REPORTING PERIOD**

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	OJJDP Compliance Monitoring Guidance Manual, page 39

Statement of Purpose:

A designated monitoring report period is essential in providing accurate year-to-year monitoring reports. A 12-month report period is the most sound method and leaves no room for statistical errors. In the event a facility fails to provide data, a statistically sound method of projecting the data must be used.

Process:

The report period selected in Vermont is a Calendar Year.

Procedures:

1. All data collected for the OJJDP Annual Compliance Monitoring report will show that it has been collected from January 1 through December 31 of the respective Calendar year of the report.
2. The OJJDP Compliance Monitoring Report is located on the OJJDP website and should be completed electronically.

2.6

**ANNUAL METHOD OF REPORTING COMPLIANCE
WITH THE JJDP ACT**

Date Issued: March 2013

Review Date: December 2013, annually thereafter

Last Review:

Related OJJDP Regulations: None

Statement of Purpose:

The data and information collected in throughout the year must be analyzed, reviewed, and written up in the form of the annual Compliance Monitoring Report, which must be received by OJJDP no later than July 1 of each year.

Process:

It is the compliance monitor's responsibility to collect, verify, and compile the data each year. The compliance monitor will also complete all other facets of the report.

Procedures:

1. On or before June 1st of each year the compliance monitor will have collected and verified the data as listed under data sets.
2. After all data has been collected and verified the compliance monitor will extract the data that relates to the annual Compliance Monitoring Report and will complete the report. The OJJDP template report is on Microsoft Excel, the form can also be downloaded from the OJJDP web site.
3. The compliance monitor will also provide the statistical tables and/or charts required for the report.
4. The compliance monitor will submit a draft of the report to his/her supervisor and the JJS for review and revisions. On or before July 1 of each year, the OJJDP Annual Compliance Monitoring report will be submitted to the OJJDP.

The report will be made available to the SAG and other interested parties

3.0

**CORE REQUIREMENTS AND OJJDP REGULATIONS
BY TYPE OF FACILITY**

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act Consolidated Federal Regulation

Statement of Purpose:

States must use only the federal definitions when monitoring for compliance with the JJDP Act and related regulations. Each type of facility must meet certain criteria in order to be classified as such. Each type of facility complies with the regulations in different ways. This policy is intended to provide the compliance monitor with compliance as it relates to each type of facility recognized by OJJDP. All facilities must fit into one of these categories.

Policy:

Within this policy, a summary of the JJDP Act/regulations by type of facility and type of juvenile are provided.

Procedures:

The compliance monitor will refer to these charts and the rest of the policies and procedures when assessing compliance at facilities.

Facility	DSO	Jail Removal	Separation
Jails/Lockups	Yes	Yes	Yes
Juvenile Detention and Correctional Facilities	Yes	No	Yes
Court Holding	No	No	Yes
Prisons	Yes	No	Yes

3.1

SECURE AND NONSECURE CUSTODY

Date Issued:	March 2013
Review Date:	December 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

This policy is intended to provide the compliance monitor with direction on monitoring secure and non-secure facilities.

Policy:

During classification of facilities the compliance monitor will make an initial determination based on regulations, licensing requirements and/or from previous site visits whether the facility is secure or non-secure. The only valid method to confirm classification is through a site visit. This policy provides guidance on what constitutes a secure facility and what constitutes a non-secure facility. Data and compliance are linked to secure facilities only. If during a site visit it is determined that a facility has changed classification status from non-secure to secure, the compliance monitor should reclassify the facility as secure and immediately ensure that data is being collected. The compliance monitor should also provide the facility with all necessary information and materials that are required for secure facilities for the core protections under that JJDP Act. This should include the Juvenile Holding log and instructions, implementation guide for juveniles in secure facilities and any other training tools as requested by the facility administrator or contact person.

Procedures:

Secure Custody is used to define a detention or correctional facility, or residential facilities having construction features designed to physically restrict the movements and activities of persons in custody (e.g., 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 (i.e., staff secure). Further guidance in distinguishing non-secure custody from secure custody comes from the November 2, 1988, Federal Register announcement, Policy Guidance for Non-Secure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy.

As examples, a juvenile placed in the following situations would be considered in a secure custody status:

1. A juvenile placed in a cell within an adult jail or lockup, whether or not the cell door is locked.
2. A juvenile placed in an unlocked room within the secure perimeter of an adult jail or lockup or a juvenile detention center.
3. A juvenile left in a secure booking area after being photographed and fingerprinted.
4. A juvenile being processed in a secure booking area where an un-secure booking area is available within a facility.
5. A juvenile handcuffed to a rail in an unlocked lobby area of an adult jail or lockup.
6. A juvenile handcuffed to a stationary object in any area of the facility.
7. A juvenile placed in a room that contains egress doors with unapproved delayed egress devices.

Non-Secure Custody is used to define when a juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in a secure detention or confinement status. OJJDP's Policy Guidance states that all of the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

1. The area where the juvenile is held is an unlocked multi-purpose area, such as a lobby, office, or interrogation room that is not designated, set aside or used solely as a secure detention area or is not part of such an area, or if a secure area, is used for processing purposes;
2. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;

3. The use of the area is limited to providing non-secure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
4. In no event can the area be designated or intended to be used for residential purposes; and
5. The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

In addition, a juvenile placed in the following situations would be considered in a non-secure status:

6. A juvenile handcuffed to a non-stationary object: If the five criteria listed above are adhered to, handcuffing techniques that do not involve cuffing rails or other stationary objects are considered non-secure.
7. A juvenile being processed through a secure booking area: Where a secure booking area is all that is available and continuous visual supervision is provided throughout the booking process and the juvenile remains in the booking area only long enough to be photographed and fingerprinted, the juvenile is not considered to be in a secure detention status. Continued non-secure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
8. A juvenile placed in a secure police car for transportation. The JJDP Act applies only to secure detention facilities and secure correctional facilities, therefore, a juvenile placed in a police car for transportation would be in a non-secure status.
9. A juvenile placed in a non-secure runaway shelter but prevented from leaving because of staff restricting access to exits. A facility may be non-secure (i.e., staff secure) if physical restriction of movement or activity is provided solely through facility staff.
10. A juvenile placed in a room that contains doors with delayed egress devices which have received written approval (including a specification of the maximum time delay allowed) by the authority having jurisdiction over fire codes and fire inspections in the area in which the facility is located and which comply with the egress delay established by the authority having jurisdiction over fire codes and fire inspections.

Also see OJJDP's Compliance Monitoring Guidance Manual, which is located on their web site.

3.2

TRANSFERRED AND WAIVED JUVENILES

Date Issued:	March 2013
Review Date:	December 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP Compliance Monitoring Guidance Manual

Attachment : Vermont Statute 33 V.S.A. § 5204 Transfer from juvenile court

Statement of Purpose:

The compliance monitor should exclude juveniles under the age of 18 who are being filed on as adult felons,. In Vermont, juveniles are often direct-filed to adult court for misdemeanor offenses committed after the age of 16. The legal age of majority in VT is 18. In VT, it is determined by OJJDP and the State department responsible for compliance monitoring that minors who are charged or adjudicated for adult misdemeanor offenses are treated the same and afforded the same JJDPA protections as delinquent youth. Minors who are charged or convicted felons are not subject to the JJDPA protections or monitoring. .

Policy:

It is the responsibility of the compliance monitor to determine if a juvenile case is filed in adult court as a misdemeanor or felony charge.

Procedures:

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. Note that waiver or transfer and the filing of criminal felony charges does not transform a juvenile into an adult. Therefore, such a juvenile can be detained (or confined after conviction) in a juvenile facility and commingled with juvenile offenders.

A juvenile who has been charged as a felon does not have to be separated from adult criminal offenders. This is due to the fact that such a juvenile is not alleged to be or found to be delinquent (i.e., the juvenile is under a criminal proceeding, not a delinquency proceeding).

Chapter 52: DELINQUENCY PROCEEDINGS
33 V.S.A. § 5204. Transfer from juvenile court

§ 5204. Transfer from juvenile court

(a) After a petition has been filed alleging delinquency, upon motion of the state's attorney and after hearing, the juvenile court may transfer jurisdiction of the proceeding to district court, if the child had attained the age of 10 but not the age of 14 at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2); or

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253.

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The state's attorney of the county where the juvenile petition is pending may move in the juvenile court for an order transferring jurisdiction under subsection (a) of this section within 10 days of the filing of the petition alleging delinquency. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the juvenile court may deny the motion to transfer jurisdiction.

(c) Upon the filing of a motion to transfer jurisdiction under subsection (b) of this section, the juvenile court shall conduct a hearing in accordance with procedures specified in subchapter 2 of this chapter to determine whether:

(1) there is probable cause to believe that the child committed an act listed in subsection (a) of this section; and

(2) public safety and the interests of the community would not be served by treatment of the child under the provisions of law relating to juvenile courts and delinquent children.

(d) In making its determination as required under subsection (c) of this section, the court may consider, among other matters:

(1) The maturity of the child as determined by consideration of his or her age, home, environment; emotional, psychological and physical maturity; and relationship with and adjustment to school and the community.

(2) The extent and nature of the child's prior record of delinquency.

(3) The nature of past treatment efforts and the nature of the child's response to them.

(4) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

(5) The nature of any personal injuries resulting from or intended to be caused by the alleged act.

(6) The prospects for rehabilitation of the child by use of procedures, services, and facilities available through juvenile proceedings.

(7) Whether the protection of the community would be better served by transferring jurisdiction from the juvenile court to the district court.

(e) A transfer under this section shall terminate the jurisdiction of the juvenile court over the child only with respect to those delinquent acts alleged in the petition with respect to which transfer was sought.

(f) The juvenile court, following completion of the transfer hearing, shall make written findings and, if the court orders transfer of jurisdiction from the juvenile court, shall state

the reasons for that order. If the juvenile court orders transfer of jurisdiction, the child shall be treated as an adult. The state's attorney shall commence criminal proceedings as in cases commenced against adults.

(g) The order granting or denying transfer of jurisdiction shall not constitute a final judgment or order within the meaning of Rules 3 and 4 of the Vermont Rules of Appellate Procedure.

(h) If a person who has not attained the age of 16 at the time of the alleged offense has been prosecuted as an adult and is not convicted of one of the acts listed in subsection (a) of this section but is convicted only of one or more lesser offenses, jurisdiction shall be transferred to the juvenile court for disposition. A conviction under this subsection shall be considered an adjudication of delinquency and not a conviction of crime, and the entire matter shall be treated as if it had remained in juvenile court throughout. In case of an acquittal for a matter specified in this subsection and in case of a transfer to juvenile court under this subsection, the court shall order the sealing of all applicable files and records of the court, and such order shall be carried out as provided in subsection 5119(e) of this title.

(i) The record of a hearing conducted under subsection (c) of this section and any related files shall be open to inspection only by persons specified in subsections 5117(b) and (c) of this title in accordance with section 5119 of this title and by the attorney for the child. (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009.)

3.3

COURT HOLDING FACILITIES

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

The compliance monitor needs to understand what constitutes a Court Holding Facility in order to monitor this type of facility for compliance with the JJDP Act core protections

Policy:

This policy will serve as guidance when monitoring Court Holding Facilities.

Procedures:

1. A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings. Court holding facilities, where they do not detain individuals overnight (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to court appearances, are not considered adult jails or lockups. However, such facilities remain subject to the section 223(a) (12) (Separation) requirement of the Act.
2. If it is a facility that is used for purposes other than court holding or is used for

punitive purposes, it no longer qualifies as a court holding facility and should be classified as an adult jail or lockup and that chart should be used to determine compliance.

3. The compliance monitor must monitor court holding facilities to ensure that they continue to meet the definition and purpose listed above.
4. A status offender or delinquent placed in a court holding facility is exempt from the DSO requirement if the facility meets the criteria listed above.
5. It is important to note that court holding facilities have a practical time limitation in that juveniles must be brought to and removed from the facility during the same judicial day.

Attachments: Court Holding Facilities Regulations by Core Protections

Court Holding Facilities Regulations by Core Protections

<u>Type of Juvenile</u>	<u>Rules</u>	<u>If not followed, these Core Requirements are violated</u>
Alleged juvenile status offender, nonoffender or civil type offender	No restrictions on holding if separated from adults	Sight and Sound Separation
Adjudicated juvenile status offender or nonoffender	No restrictions on holding if separated from adults	Sight and Sound Separation
Alleged juvenile delinquent	No restrictions on holding if separated from adults	Sight and Sound Separation
Adjudicated juvenile delinquent	No restrictions on holding if separated from adults	Sight and Sound Separation
Juvenile transferred or waived to adult court on felony charges	JJDP Act does not apply	N/A

3.4

OTHER TYPES OF FACILITIES

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP Compliance Monitoring Guidance Manual
Vermont Statute	33 V.S.A. § 5292. Detention in adult facilities of minors charged or adjudicated as delinquents

Statement of Purpose:

The compliance monitor needs to understand what constitutes other types of facilities in order to monitor this type of facility for compliance with the JJDP Act core protections

Policy:

The policy will serve as guidance when monitoring other types of facilities.

Procedures:

Adult Prisons

1. An adult prison includes any institution used for the post-conviction confinement of adult criminal offenders, including work camps and secure facilities located in

the community. In VT, the state Corrections facilities serve as both prisons and detention centers or jails.

2. The JJDP Act prohibits the placement of status offenders and non-offenders in secure detention facilities or secure correctional facilities. Holding status offenders or non-offenders in an adult prison would be a violation of the JJDP Act.
3. The JJDP Act states that no juvenile shall be detained or confined in any jail or lockup for adults, therefore the JJDP Act limits the facilities from which juveniles must be removed to adult jails and lockups. The requirement does not apply to adult prisons. Therefore, holding a delinquent offender in an adult prison is not a violation of the jail removal core requirement. VT statute prohibits minor youth from being admitted to adult correctional facilities operated by the state Department of Corrections DOC.
4. However, complete separation must be provided between juvenile delinquent offenders and adult inmates and trustees in adult prisons

33 V.S.A. § 5292. Detention in adult facilities of minors charged or adjudicated as delinquents

§ 5292. Detention in adult facilities of minors charged or adjudicated as delinquents

(a) A minor charged with a delinquent act shall not be detained under this chapter in a jail or other facility intended or used for the detention of adults unless the child is alleged to have committed a crime punishable by life imprisonment and it appears to the satisfaction of the court that public safety and protection reasonably require such detention.

(b) A minor who has been adjudicated as a delinquent child shall not by virtue of such adjudication be committed or transferred to an institution or other facility used primarily for the execution of sentences of persons convicted of a crime.

(c) The official in charge of a jail or other facility intended or used for the detention of adult offenders or persons charged with crime shall inform the court immediately when a minor who is or appears to be under the age of 18 years is received at the facility other than pursuant to subsection (a) of this section or section 5293 of this title and shall deliver the minor to the court upon request of the court or transfer the minor to the detention facility designated by the court by order. (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009.

5. Shape Up or Scared Straight programs, where juveniles are brought inside adult prisons to discuss a life of crime with adult inmates as an intervention program are violations of the separation core protection when the juvenile is required to participate in this program as part of a court order, including probation or

diversion requirements. The VT Department of Corrections has policy prohibiting Scared Straight-type programs.

Secure Mental Health Facilities

6. A juvenile committed to a mental health facility under a separate State law governing civil commitment of individuals for mental health treatment or evaluation would be considered outside the class of juvenile status offenders and non-offenders. For monitoring purposes, this distinction does not permit placement of status offenders or non-offenders in a secure mental health facility where the court is exercising its juvenile status offender or non-offender jurisdiction. The State must ensure that juveniles alleged to be or found to be juvenile status or non-offenders are not committed under State mental health laws to circumvent the intent of DSO.
7. There are no restrictions to placing delinquent offenders in a mental health treatment center. The separation requirement does not apply if the juvenile and adults are held in a mental health facility solely because of a mental health civil commitment.

Non-secure Temporary Holding Facilities, Staff Secure Facilities, Non-secure Shelter or Group Homes

8. Non-secure, community based programs or facilities are exempt for the purposes of monitoring for compliance with the core requirements. The core protections only apply to secure facilities. For example, a non-secure residential program for treatment of substance abuse could include both juvenile delinquent or status offenders and adult offenders who are under a sentence for the conviction of a crime.
9. The compliance monitor should survey non-secure facilities that hold juveniles to verify their non-secure status. If the facility's status should change from non-secure to secure, the facility must be monitored as an adult jail or lockup if it holds both juvenile and adult offenders. If it holds only juveniles it must be monitored as a juvenile detention center.
10. As with other facilities discussed in this manual, classification of the facility is key to understanding how the core requirements apply and what regulations are to be followed. Classification will determine what type of juvenile may be held and for what period of time. The two primary descriptors to determine facility classification is the level of security and the location of the facility. The following chart provides guidance on the classification of temporary holding facilities.
11. Prior to the establishment of a Temporary Holding Facility, it is recommended that a needs assessment be conducted. Often, these facilities are seen as a solution to a host of programmatic problems within a community when it is in fact, a limited and expensive option. The costs are higher resulting in a program driven continuum of services for juveniles rather than one driven the client's needs. Some questions to

ask are:

What purpose would this facility serve our community and juveniles?

Which juveniles would be placed there, for how long? What placement process would we use?

What does our data indicate the needs are?

Can this service be provided elsewhere?

Does providing temporary holding limit our ability to provide other services for juveniles?

What are the on-going operating costs and who will cover them?

12. A juvenile can be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility but not be in secure detention or confinement status. OJJDP's Policy Guidance for Non-Secure Custody of Juveniles in Adult Jails or Lockups states that all of the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

The area where the juvenile is held is an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designated, set aside or used as a secure detention area or is not part of such an area, or if a secure area, is used only, and at all times, for processing purposes; and,

The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody within the facility; and,

The use of the area is limited to providing non-secure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court; and,

The juvenile must be under continuous visual supervision by law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

13. Additionally, the following are considered to be juveniles in non-secure status:

A juvenile handcuffed to a non-stationary object. If the 5 criteria listed above are adhered to, handcuffing techniques that do not involve being secure to stationary objects or cuffing rings are considered non-secure.

14. A juvenile being processed through a secure booking area where a secure booking area is all that is available and continuous visual supervision is provided throughout the booking process and the juvenile remains in the booking area only long enough to be photographed and fingerprinted, the juvenile is not considered to be in a secure detention status. Continued non-secure custody for the purposes of interrogation,

contacting parents, or arranging an alternative placement must occur outside the secure booking area.

15. All Vermont temporary holding facilities, secure and non-secure, should have written policies and procedures which correspond to the DCF Temporary Holding Guidelines. The DCF compliance monitor should provide the facilities with copies of the guidelines and provide technical assistance if needed in writing them.

4.0

CERTIFICATION FOR COMPLIANCE WITH TITLE V

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 OJJDP Consolidated Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

In 1994, Congress stipulated that for a unit of general local (cities and towns) government of federally recognized tribe to be eligible to apply to the state for Title V Community Prevention Grant funds, the unit must be certified by the State Advisory Group as in compliance with the four core requirements. The unit of local government must obtain this certification prior to applying for an award of funds. In certifying, the unit of local government must be within the de minimus parameters provided in the OJJDP regulations, this determination is based on the locality's most current census data.

Policy:

The compliance certification applies to all facilities operated by or contracted by the unit of local government. This certification is not limited to a specific catchment area, therefore this certification must also include any facility that is owned, operated or contracted with by the unit of local government.

In order to be in compliance with the DMC requirement, the unit of local government must be cooperating with data gathering and must be making an adequate effort toward addressing, or assisting the State to address, this issue. The level of

cooperation must be satisfactory to support efforts to achieve the goals of the DMC requirement.

After awards are made, the compliance monitor must ensure that these communities continue to comply. As part of the Title V grants program, a plan must be in place, which will identify and discontinue all Title V grants that fall out of compliance.

Procedures:

The JJ Specialist notifies all Title V applicants of the eligibility requirement of JJDPa compliance. Prior to applicant grant review, JJ Specialist will check with the compliance monitor to assure that the applicant communities are in full compliance and have had a recent on-site inspection.

1. The compliance monitor will complete the certification based on the most recent 12 months of compliance monitoring data using the most current census figures available.
2. the compliance monitor will inform the facility administrator or contact person of these funding requirements at all on-site visits so they may make every effort to comply.
3. If a Title V funded community facility falls out of compliance, the compliance monitor will notify the JJS and remedial action will be taken. That action may include technical assistance and training.

OJJDP Published Rates of Compliance

DEINSTITUTIONALIZATION OF STATUS OFFENDERS (DSO)	
Rate of Violations per 100,000 juveniles	Criteria for Compliance
0.0 (or less than 0.1)	The State has demonstrated full compliance.
0.1 – 5.7	The State has demonstrated full compliance with de minimis exceptions.
5.8 – 17.6	The State is eligible for a finding of compliance with de minimis exceptions if it adequately meets two criteria: a) non-compliant incidents violated State law, and b) an acceptable plan has been developed that is designed to eliminate the non-compliant incidents.
17.7 – 29.4	The State is eligible for a finding of compliance with de minimis exceptions if it <i>fully satisfies</i> two criteria: a) non-compliant incidents violated state law and b) an acceptable plan has been developed that is designed to eliminate the non-compliant incidents.
29.5 and greater	The State is presumptively ineligible for a finding of compliance because any rate above this level is considered to represent a excessive and significant level of status offenders and non-offenders held in juvenile detention or correctional facilities.

JAIL REMOVAL	
Rate of Violations per 100,000 juveniles	Criteria for Compliance
0.0 (or less than 0.1)	The State has demonstrated full compliance.
0.1 – 9.0	The State is eligible for the numerical deminimis exception if the State has developed a acceptable plan to eliminate the non-compliant incidents through the enactment or enforcement of State law, rule or statewide executive or judicial policy, education, the provision of alternatives or other effective means.
9.1 and greater	The State is eligible for the substantive deminimis exception if the State meets five criteria: 1) there are recently enacted changes in State law that are expected to have significant impact on the State's achieving compliance; 2) all instances of non-compliance were in violation of State law; 3) the instances of non-compliance do not indicate a pattern or practice but rather constitute isolated instances; 4) there are existing mechanisms to effectively enforce State law and 5) an acceptable plan has been developed to eliminate the non-compliant incidents. If one or more of these criteria are not met, the State is ineligible for a finding of compliance.

SIGHT AND SOUND SEPARATION	
Actual Number of Violations	Criteria for Compliance
0	The State has demonstrated full compliance.
	The State is eligible for a finding of compliance if the instances of non-

1 and greater	compliance do not indicate a pattern or practice but rather constitute isolated instances and one of the following criteria is satisfied: a) instances of non-compliance were in violation of State law and existing enforcement mechanisms are such that the instances of non-compliance are unlikely to recur in the future, or b) an acceptable plan has been developed to eliminate the non-compliant incidents.
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DISPROPORTIONATE MINORITY CONTACT	
Full compliance	Records which include race and ethnicity are maintained on all juveniles held.
A facility should be maintaining records, which include race and ethnicity; the facility is out of compliance and should be cooperative in addressing DMC.	

How the rate of violations was determined for your agency

1. The juvenile population was obtained from the latest census figures. The following box shows the number of juveniles living in your community between the ages of 0 –17.

The juvenile population 0 – 17 years of age is:	
-------------------------------------------------	--

2. The number of violations under each of the core requirements was reviewed based on the data collected during the 20__ monitoring year. (January 1, 20__ through December 31, 20__)

Core Requirement	Number of Violations	Rate of Violations
Deinstitutionalization of Status Offenders		
Sight and Sound Separation		
Jail Removal		
Disproportionate Minority Contact		

6.0

COMMONLY ASKED COMPLIANCE MONITORING QUESTIONS

Date Issued:	March 2013
Review Date:	December 1 2013, annually thereafter
Last Review:	June 2016
Related OJJDP Regulations:	JJDP Act 1996 Consolidated Federal Regulation OJJDP Compliance Monitoring Guidance Manual

Statement of Purpose:

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Policy:

This policy serves to provide additional guidance.

Procedures:

The following is offered as a guide to commonly asked compliance monitoring questions.

FREQUENTLY ASKED QUESTIONS (FAQs)

Deinstitutionalization of Status Offenders

Section 223 (a)(11)(A) of the JJDP Act

This requirement has been part of the JJDP Act since its inception in 1974.

Congress noted that status and non-offenders were being held in adult jails and lockups for long periods of time simply because there were no other placement

options. Since these juveniles had not committed a crime they were the first priority to remove from adult jails and lockups.

Q. Does a status offender, after violating a Valid Court Order, become a delinquent? Examples include, contempt of court, failure to appear and nonpayment of fines.

A. *No, they are not reclassified as a delinquent nor can they be “upgraded” to a delinquent.*

Q. What is the difference between a non-offender and a status offender?

A. *A non-offender is typically a dependent/neglected or abused juvenile, whereas a status offender has committed a crime that would not be a crime if committed by an adult (runaway, , truancy, curfew violation). A non-offender may not be held in a juvenile detention center under circumstances, for any period of time.*

Q. Is possession of a firearm by a juvenile a status offense?

A. *Section 922(x) of U.S.C. Title 18 (the Federal Criminal Code), prohibits the possession of a handgun by a juvenile. A juvenile who violates this statute, or a similar State law, is exempted from the DSO requirement and are not reported as DSO violations.*

Q. May a status or non-offender ever be taken to an adult jail or lockup?

A. *Yes. They may be taken to an adult jail or lockup for processing (fingerprints and photo) and placed in a non-secure area awaiting parent or other responsible adult. They may be booked in a secure booking area if they are under the officers continuous visual supervision and are removed from the booking area immediately following booking, and there may be no other non-secure booking area available.*

Q. If a status offender (or non-offender) is securely detained in an adult jail or lockup, how is this counted as a violation?

A. *When a status offender or non-offender is securely detained in an adult jail or lockup, it is counted as two violations, once under the DSO requirement and again under the Jail Removal requirement.*

Q. If a status offender or non-offender is placed in a cell, but the door is not locked, is that a violation?

A. *OJJDP’s opinion is a cell is a cell is a cell. Therefore, even if the holding cell door is not locked, it is still a violation.*

Q. Can a status offender be transported to a law enforcement facility?

A. *Yes, status offenders may be transported and processed in an adult jail where*

continuous visual supervision is provided throughout the booking process. Continued non-secure custody for the purpose of interrogation, contacting parents or arranging another placement must occur outside the secure booking area.

- Q. Can a juvenile before the court because of a petition for mental health commitment, who is ordered committed for treatment of a mental disorder, be placed in a secure mental health facility for treatment purposes?
- A. *It is OJJDP's position that all juvenile non-offenders in any category should not be placed in any secure facility. However, for the purposes of monitoring DSO may be interpreted to include within its scope only juveniles who are before a juvenile, family, or other civil court for reasons which are unique to the Individual's status as a juvenile. In other words, for the purposes of monitoring, a juvenile committed to a mental health facility under State law governing civil commitment of individuals for mental health treatment would be considered as outside the class of juvenile non-offenders defined by DSO. It should be perfectly clear that these distinctions for monitoring purposes would not permit placement of status offenders and non-offenders in a secure mental health facility following an adjudication for a status offense or a court finding that the juvenile is a non-offender. The placement of status offenders or non-offenders in such facility for diagnostic purposes is not allowable. A separate civil mental health commitment proceeding would be required before a status offender or non-offender could be placed in a secure facility and, for monitoring purposes, be outside the scope of DSO. Any placement of such status offender or non-offender must occur only after a full due process hearing is undertaken to protect the rights of the child. The State must assure that juveniles alleged to be or found to be status offenders or non-offenders are not committed under state mental health laws to circumvent the intent of DSO.*

Sight and Sound Separation

Section 223 (a)(12) of the JJDP Act

This requirement has been part of the JJDP Act since its inception in 1974.

Congress noted that juveniles were being held in adult jails and lockups with adults and were subject to abuse.

- Q. Can juveniles waived to adult court be held with other juveniles?
- A. *Yes. Juveniles waived to adult court are considered to be a swing group by OJJDP and may be held with either adults or with juveniles providing they have not yet turned 18. They may be held securely at juvenile facilities (WOODSIDE) The State's maximum age of extended juvenile jurisdiction, which in Vermont is age 18. At that time they must be removed from WOODSIDE and placed in adult facilities.*
- Q. Can juvenile offenders and adult offenders be placed together in non-secure community-based facilities?
- A. *Yes. Non-secure community-based facilities do not fall under the JJDP Act.*
- Q. How does OJJDP define sight and sound contact?
- A. *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.

Q. What is a collocated facility?

A. *A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered related when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer). See the Consolidated Formula Grants regulation for more information on the requirements of a collocated facility. (Vermont does not have any collocated facilities.)*

Q. What is time-phasing?

A. *Time phasing is using the same space in an adult jail or lockup for both juveniles and incarcerated adults but not at the same time. Time phasing rules should be included in policies and procedures. Time phasing is used to maintain compliance with separation in facilities that do not have separate areas for juveniles and incarcerated adults.*

Q. If a juvenile and adult commit a crime together, do they need to be separated?

A. *The regulations do not address separation in a patrol car, therefore they can be transported together. Once the juvenile is placed in a secure environment at the adult jail or lockup, separation is required, regardless of whether they committed the crime together.*

Q. Does sight and sound apply when juveniles are being transported with adults?

A. *No, separation does not apply outside of facilities.*

Q. How does the use of trustees apply in determining compliance?

A. *When monitoring for separation supervision or contact with adult trustees constitutes a violation.*

Q. Is separation required in non-secure facilities?

A. *No. None of the core requirements apply in non-secure facilities, only secure facilities.*

Q. What about Shape Up or Scared Straight type programs?

A. *These types of programs are violations of separation. See OJJDP Guidance Manual or the adult jail and lockup section in this manual.*

Jail Removal

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

This requirement was added to the JJDP Act during reauthorization in 1980. Congress noted that States were attempting to comply with the separation requirement and consequently, holding juveniles in total isolation for long periods of time. This requirement was added to remove juveniles from adult facilities and if needed, detain them in a more appropriate setting.

- Q. Can a juvenile whose behavior is beyond the control of the juvenile detention center staff be transferred to an adult jail or lockup until they are under control?
- A. *No. The juvenile may not be transferred to an adult jail or lockup unless the juvenile, while at the juvenile detention center, is charged with a criminal offense and the juvenile is then held at the adult jail or lockup under one of the three exceptions to the jail removal requirement. This juvenile may not be placed in an adult jail or lockup to teach them a lesson or for a cooling off period.*
- Q. Can the 6-hour time period for accused delinquents before and after court be combined?
- A. *No. A juvenile may be detained for up to 6 hours before and/or for up to 6 hours after a court appearance. The hours may not be combined or exchanged or traded.*
- Q. When does the 6-hour time clock start and when is it turned off?
- A. *The 6-hour clock starts the moment a juvenile is placed in a secure environment. The clock can not be stopped until the juvenile is permanently removed from the secure environment. The clock does not stop for bathroom breaks, for interviews, for phone calls, etc.*
- Q. What is a secure facility?
- A. *A secure facility is one where construction fixtures are designed to physically restrict the movements and activities of persons in custody.*

Q. What does staff secure mean?

A. *Physical restriction of movement or activity is provided solely through facility staff. It does not include construction fixtures designed to physically restrict the movements and activities of persons who are in custody within; it may establish reasonable rules restricting entrance to and egress from the facility and access to the community which govern the conduct of all facility residents and may use intensive staff supervision or other programmatic intervention strategies.*

Q. What is the time frame on the data?

A. *The OJJDP Compliance Monitoring report is due within six months of the close of the monitoring year. OJJDP prefers that States use the calendar year for their compliance monitoring report. The deadline dates, depending on your current monitoring year, would be calendar year due June 30; Federal Calendar Year due March 31; and State Calendar Year due December 31. (Vermont currently uses the calendar year reporting system.)*

Q. Is a room with a lock on it considered secure?

A. *If a juvenile is placed in a room with a lock on it, even though it is unlocked it is considered secure. An exception is if a department is in only one room and they need to lock it based on the purposes of the room (to keep people away from valuable equipment). If it has the potential to be secure but is never used as a secure room but maybe locked to house equipment and there are policies which state juveniles will never be held there, then it is ok.*

Q. If the building perimeter is secure, is a juvenile in the building considered to be in secure custody?

A. *Yes, if the perimeter is secure then a juvenile placed in that building is in secure custody. All the core requirements apply.*

Q. Is the booking area considered secure if it is secure?

A. *No. You can book status offenders in a secure booking area and not log them or count them as violations of DSO provided you move them out once the booking process is completed. The juvenile must be in the presence of a law enforcement officer during the entire booking process, there must be no other non-secure booking area available, and the juvenile must be moved out of the secure booking area once the booking process is completed.*

Q. What is the exact time frame on the 6-hour rule?

A. *A delinquent becomes a violation after 6 hours and 1 minute.*

Q. What about time-released locks?

A. *It is considered non-secure if there is a delay of up to 30 seconds*

Q. Define what the monitoring universe should consist of, especially what types of public and private facilities, other than detention centers and secure law enforcement facilities, that should be monitored and under what circumstances could they be excluded?

A. The Identification of the Monitoring Universe refers to identifying all residential

facilities which might hold juveniles pursuant to public authority and therefore should be classified to determine if each should be included in the other monitoring tasks. This includes those facilities owned or operated by public or private agencies. A full list should be developed and should include all jails, lockups, detention centers, correctional facilities, group homes, foster homes, and any other secure or non-secure public or private mental health facilities and hospitals, chemical dependency programs, detoxification centers, airports, malls, sporting complexes, court holding facilities, federal facilities (military bases, Native American tribes, INS), temporary holding facilities, collocated facilities, and emergency shelters. Once all facilities are identified, they are classified. In some cases state law may prohibit placement of juveniles in certain facilities, in some cases another state agency regulates the facilities conduct and/or security level. In these cases the facility may need to be classified annually. The facilities remaining that detain juveniles securely, or may by the nature of the facility detain juveniles securely, pursuant to public authority are included in the inspection list.

Q. What is public authority?

A. Any officer, or judge, even if they are paid off-time wages. If the officer has the power to arrest and they are working a second job they are still considered public authority.

Q. Is electronic monitoring secure or non-secure?

A. Non-secure.

Q. How are Native American facilities monitored?

A. Native American reservations are included in the Monitoring Universe. If they are receiving Native American pass-through funds, the tribes must agree to attempt to comply with the core requirements. If they are not receiving funds they are treated as any other federal agency and are not required to comply. One of the most effective methods for compliance is building relationships, offering technical assistance, providing information on liability issues and assisting people in developing a comprehensive juvenile justice strategy.

Q. If a city does not have a lockup and contracts with the county to detain juveniles, should the department be part of the universe?

A. Yes, the department should be part of the universe and must be classified annually. The classification process should include an on-site visit periodically to determine if they are still non-secure. If they are non-secure, records do not need to be maintained.

Q. Are court holding facilities subject to DSO and Jail Removal?

A. No. They are only subject to separation, provided they meet the criteria for court holding. See Non-Secure regulation, 1988.

Q. How do you verify information on logs?

A. Verification may require that the compliance monitor verify records in several locations. At detention centers you may need to go to the court. At police

departments you may need to check in the file or on the radio log.

- Q. How can I get facilities to fill out logs completely and what is the best way to deal with a site that is not very cooperative?
- A. *Facilities report inaccurate information for several reasons. If completing the logs only adds to their workload but serves no purpose for them, seek methods to re-frame the reporting so it provides you with the information you need while enhancing their internal operation. Provide them with reasons to collect the information, for example, it can reduce liability and/or provide accurate admission records. If they are not cooperative, gain understanding of their concerns during your exit interview. They may just be venting their frustration with the requirements. Bring materials to the next on-site that are helpful. Become a resource. Understand their concerns.*
- Q. Which agencies should be included in compliance site visits?
- A. *All facilities that detain juveniles securely pursuant to public authority should be included in compliance onsite visits. Facilities that do not have secure facilities, but whose status may change due to the nature of their work, should be monitored periodically to ensure they are still non-secure.*
- Q. If a Judge orders a juvenile to jail is that still a violation?
- A. *Yes, court orders do not exempt facilities from compliance with the requirements. A juvenile may be held for up to 6 hours before court and 6 hours after court if they are a delinquent. If they are a status offender they may not be held for any period of time. If a Judge sentences a status offender or delinquent to an adult jail or lockup it is a violation. In the case of the status offender, it is both a DSO and Jail Removal violation. In the case of the delinquent, it is a Jail Removal violation.*
- Q. Is it a violation if a juvenile lies about their age and is detained with the adult population until it is later discovered they are really a juvenile?
- A. *If a juvenile lies about their age and local law enforcement acts in good faith and corrects the situation immediately upon receipt of accurate information although a violation has occurred it does not need to be recorded as such. If law enforcement does not correct the situation immediately then a violation should be recorded.*
- Q
- Q. If a juvenile is in non-secure custody do they need to be logged?
- A. *No. See non-secure custody requirements first to make sure the juvenile is really in non-secure custody. If they are not, they should not be listed on the juvenile holding cell log.*
- Q. Is the passage of state legislation sufficient in exempting states from monitoring?
- A. *No. Simply because a State has legislation it does not exempt them.*

Monitoring Universe

Municipal Police Departments	Address	City	State	ZipCode
Barre City Police Department	15 Fourth Street	Barre	VT	05641
Barre Town Police Department	Municipal Building	Websterville	VT	05678
Bellows Falls Police Department	170 Rockingham Street	Bellows Falls	VT	05101-0063
Bennington Police Department	P.O. Box 1563	Bennington	VT	05201-1563
Berlin Police Department	108 Shed Road	Berlin	VT	05602
Bradford Police Department	P.O. Box 339	Bradford	VT	05033
Brandon Police Department	1 West Seminary Street	Brandon	VT	05733
Brattleboro Police Department	230 Main Street	Brattleboro	VT	05301
Brighton Police Department (est. 3/08)			VT	
Bristol Police Department	P.O. Box 249	Bristol	VT	05443-0249
Burlington Police Department	1 North Avenue	Burlington	VT	05401
Canaan (NEW)	PO Box 159	Canaan	VT	05903
Castleton Police Department	Main Street	Castleton	VT	05735
Chester Police Department	P.O. Box 370	Chester	VT	05143-0370
Colchester Police Department	P.O. Box 37, 835 Blakely Rd.	Colchester	VT	05446-0037
Dover Police Department	P.O. Box 124	West Dover	VT	05356-0124
Essex Police Department	81 Main Street	Essex Junction	VT	05452
Fair Haven Police Department	Municipal Building	Fair Haven	VT	05743
Hardwick-Greensboro Police Dept.	P.O. Box 447	Hardwick	VT	05843
Hartford Police Department	812 V.A. Cutoff Road	White River Junction	VT	05001-3331
Hinesburg Police Department	P.O. Box 1	Hinesburg	VT	05461
Ludlow Police Department	P.O. Box B	Ludlow	VT	05149
Lyndonville Police Department	P.O. Box 167	Lyndonville	VT	05851
Manchester Police Department	6039 Main Street	Manchester	VT	05255-0909
Middlebury Police Department	One Lucius Shaw Lane	Middlebury	VT	05753
Milton Police Department	37 Bombardier Road	Milton	VT	05468

Montpelier Police Department	1 Pitkin Court	Montpelier	VT	05602
Morristown Police Department	P.O. Box 665	Morrisville	VT	05661
Newport Police Department	222 Main Street	Newport	VT	05855
Northfield Police Department	51 South Main Street	Northfield	VT	05663
Norwich Police Department	P.O. Box 311	Norwich	VT	05055-0311
Randolph Police Department	10 Salisbury Street	Randolph	VT	05060
Richmond Police Department	P.O. Box 285	Richmond	VT	05477-0285
Rutland City Police Department	108 Wales Street	Rutland	VT	05701
Shelburne Police Department	P.O. Box 58	Shelburne	VT	05482-0058
South Burlington Police Dept.	575 Dorset Street	South Burlington	VT	05403
Springfield Police Department	96 Main Street	Springfield	VT	05156
St. Albans Police Department	30 Lower Welden Street	St. Albans	VT	05478
St. Johnsbury Police Department	1187 Main Street, Suite 1	St. Johnsbury	VT	05819
Stowe Police Department	P.O. Box 907	Stowe	VT	05672-0907
Swanton Police Department	120 First Street	Swanton	VT	05488
Thetford Police Department	P.O. Box 126	Thetford Center	VT	05075
UVM Police Services	284 East Avenue	Burlington	VT	05405-0505
Vergennes Police Department	P.O. Box 35	Vergennes	VT	05491
Vernon Police Department	P.O. Box 63	Vernon	VT	05354-0063
Waterbury Police Department	P.O. Box 907	Waterbury	VT	05676
Weathersfield Police Department	P.O. Box E	Ascutney	VT	05030-0048
Williston Police Department	7878 Williston Road	Williston	VT	05495
Wilmington Police Department	P.O. Box 217	Wilmington	VT	05363-0217
Windsor Police Department	P.O. Box 47	Windsor	VT	05089
Winhall Police Department	P.O. Box 139	Bondville	VT	05340-0139
Winooski Police Department	27 West Allen Street	Winooski	VT	05404
Woodstock Police Department	P.O. Box 212	Woodstock	VT	05091-0212

* **BOLD = SECURE FACILITY**

State Police Barracks	Address	City	State	Zip Code
Vermont State Police – St. Albans	P.O. Box 809	St. Albans	VT	05478
Vermont State Police – Williston	2777 St. George Road	Williston	VT	05495
Vermont State Police – Middlesex	1080 US Route 2	Middlesex	VT	05602
Morrison Outpost				
Vermont State Police – Derby	35 Crawford Rd.	Derby	VT	05829
Vermont State Police – Bradford	1594 Waits River Road	Bradford	VT	05033
Vermont State Police – St. Johnsbury	1068 US Route 5, Suite 1	St. Johnsbury	VT	05819
Vermont State Police – New Haven	P.O. Box 83	New Haven	VT	05472
Vermont State Police – Shaftsbury	P.O. Box 215	Shaftsbury	VT	05262
Vermont State Police – Rutland	124 State Place	Rutland	VT	05701
Vermont State Police - Brattleboro	464 Marlboro Road	Brattleboro	VT	05301
Vermont State Police - Rockingham	1987 Rockingham Road	Chester	VT	05143
Vermont State Police - Royalton	2011 VT Route 107	Bethel	VT	05032

County Sheriffs	Address	City	State	Zip Code
Addison County Sheriff's Office	35 Court Street	Middlebury	VT	05753
Bennington County Sheriff's Office	P.O. Box 4207	Bennington	VT	05201
Caledonia County Sheriff's Office	1126 Main Street, Suite 2	St. Johnsbury	VT	05819
Chittenden County Sheriff's Office	P.O. Box 1426	Burlington	VT	05402-

				1426
Essex County Sheriff's Office	91 Courthouse Drive	Guildhall	VT	05905
Franklin County Sheriff's Office	P.O. Box 367	St. Albans	VT	05478-0367
Grand Isle County Sheriff's Office	P.O. Box 168	North Hero	VT	05474
Lamoille County Sheriff's Office	P.O. Box 96	Hyde Park	VT	05655-0096
Orange County Sheriff's Office	11 VT RT 113	Chelsea	VT	05038
Orleans County Sheriff's Office	255 Main Street	Newport	VT	05855
Rutland County Sheriff's Office	P.O. Box 303	Rutland	VT	05702-0303
Washington County Sheriff's Office	P.O. Box 678	Montpelier	VT	05601-0678
Windham County Sheriff's Office	62 Pleasant Street PO BOX 478	Woodstock	VT	05091
Windsor County Sheriff's Office	P.O. Box 266	Newfane	VT	05345-0266

Adult Prisons	Address1	City	State	ZipCode
Barre City Jail	15 Fourth Street	Barre	VT	05641
Caledonia Community Work Camp	12366 US Route 5	St. Johnsbury	VT	05819
Chittenden Regional Correctional Facility	7 Farrell Street	South Burlington	VT	05403
Marble Valley Regional Correctional Facility	167 State Street	Rutland	VT	05701
Northeast Regional Correctional Facility	1270 US Route 5	St. Johnsbury	VT	05819
Northern State Correctional Facility	2559 Glen Road	Newport	VT	05855
Northwest State Correctional Facility	3649 Lower Newton Road	Swanton	VT	05488
Southeast State Correctional Facility	546 State Farm Road	Windsor	VT	05089
Southern State Correctional Facility	700 Charleston Road	Springfield	VT	05156

Juvenile Detention and Correction	Address1	City	State	ZipCode
Woodside Juvenile Detention Center	25 Woodside Drive, East	Colchester	VT	05446

Attachment A

(Insert Annual Report on the Number of Violations by Facility)

Attachment B
Compliance Violation Letter
(On DCF Letterhead)

Date:

Name of Agency Administrator or contact person
Agency name and address

Re: Compliance Violation

Salutation

Violation Narrative: In the body of the memo, cite which core protection(s) are in violation, describe the violation, describe why it is a violation, describe the date the violation was discovered, how when and where the violation was discovered.

Corrective Action: Suggest any corrective action that needs to be done, if it has not been already done. If corrective action has already taken place and/or discussed with the contact person at the agency, note what has been done and/or discussed.

Technical Assistance: Offer technical assistance and any other help that is deemed appropriate

Reminder: Remind agency of sanctions that could occur because of this

and any future violations

(A copy of this memo is sent to the agency administrator or contact person and a copy is placed in the facility file)

Depending on the nature and severity of a violation, other state or local authorities may be informed of the violation for purposes of encouraging compliance, technical assistance, or to promote youth safety and protections. The CM, JJS, and JJ Director may determine who should be made aware of each violation or series of violations that occur.

Attachment C
Introduction Letter of Monitoring Authority (sample)
(On DCF Letterhead)

The Department for Children and Families, which has authority for compliance with the Juvenile Justice and Delinquency Prevention Act, has delegated the monitoring of all agencies and facilities that may hold juveniles securely to the Juvenile Justice Compliance Monitor.

The Governor of the state of Vermont through his designee annually accepts federal funds under the Juvenile Justice and Delinquency Prevention Act. The AHS / DCF is designated by the Governor as the State Agency to administer these funds. A condition for the receipt of these funds is to monitor compliance and noncompliance with the JJDP Act.

The JJDP compliance monitor is authorized by AHS /DCF to perform the following tasks:

1. Inspect facilities and agencies for compliance with the deinstitutionalization of status offenders, jail removal, and sight and sound separation core protections of the JJDP Act.
2. Review juvenile admission and release records to collect and verify data.

Confidentiality of the names of juveniles detained at the facilities will be maintained.

In addition, the compliance monitor is available to provide technical assistance on the core protections of the JJDP Act or any other juvenile detention matters.

Please feel free to contact this office regarding this or any other juvenile matter, concerns, comments or questions you may have.

Sincerely,

Director
Juvenile Justice Unit

Attachment D Definitions

I. JJDP Regulation Definitions

Secure Custody 31.304(b)

A detention or correctional facility, this term also includes residential facilities, which includes construction fixtures 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.

Facility 31-304(c)

A place, institution, 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 or private agencies.

Adult Jail 31-304(m)

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

Adult Lockup 31-304(n)

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

Juvenile who has been accused of having committed an offense 31.304(d)

A juvenile who has had a petition filed in 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 31-304(e)

A juvenile where the juvenile court has determined that said juvenile is a juvenile offender, i.e., a criminal type offender or a status offender.

Status offender 31.304(h)

A juvenile who has been charged with or adjudicated for conduct, which would not under the law of the jurisdiction on which the offense was committed, be a crime if committed by an adult. Status offenses include running away, truancy, violations of curfew, underage possession and/or consumption of tobacco products, and motor vehicle/ traffic violation level offenses. In Vermont this applies to persons under the age of 18.

***In 2011 OJJDP removed underage Alcohol Offenses as Status Offenses
No Longer a violation***

Nonoffender 31-304 (l)

A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency or neglect status for reasons other than legally prohibited conduct of the juvenile.

Private agency 31.304(a)

Any corporation, foundation, trust, association, cooperative or accredited institution or higher education not under public supervision or control. Any other agency, organization or institution which operates primarily for scientific, education, service charitable or similar public purposes, but which is not under public supervision or control and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by the IRS to be tax exempt under the provisions of section 501 (c)(3) of the 1954 Internal Revenue Code.

Sight and Sound Separation 31-303(l)(l)

Secure custody occurs when a juvenile offender is detained or confined in a locked room, cell or is handcuffed to a stationary object. Construction features are

designed to physically restrict the movements and activities of persons in custody,

such as locked rooms and buildings, fences or other physical structures.

Separation must be achieved architecturally or through policies and procedures in all secured areas. Sight contact occurs when a juvenile has clear visual contact with an incarcerated adult within close proximity. Sound contact is when a juvenile can have direct oral communication with an incarcerated adult. In accordance with OJJDP policy, the state must ensure that no juvenile offender shall enter under public authority, for any amount of time, into a secure setting or secure section of any jail, lockup or correctional facility as a disposition of an offense or as a means of modifying their behavior.

II. JJDP Act Definitions

Secure Detention Facility 103(12)(A)(B)

The term “secure detention facility” means any public or private residential facility which:

- A. Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and
- B. 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.

Secure Correctional Facility 103(13)(A)(B)

The term “secure correctional facility” means any public or private residential facility which:

- A. includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and
- B. is used for 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.

Public Agency 103(11)

The term “public agency” means any state, unit of local government, combination of such states or units or any department, agency or instrumentality of any of the foregoing.

III. OJJDP Compliance Monitoring Guidance Manual

Secure Custody, page 6

A detention or correctional facility, includes residential facilities having construction features designed to physically restrict the movements and activities of persons in custody (e.g., locked rooms and buildings, fences or other physical structures). It does not include facilities where physical restriction of movement or activity is solely through facility staff (i.e. staff secure).

Nonsecure Custody, pages 9 and 10

The following criteria, if satisfied, will constitute nonsecure custody of a juvenile in a building that contains an adult jail or lockup: The area where the juvenile is being held is an unlocked multi-purpose area, such as a lobby, office or interrogation room which is not designated, set aside or used as a secure detention area or is not a part of such an area, or is a secure area is used only for processing purposes; the juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility; the use of the area(s) is limited to providing nonsecure custody only long enough and for the purposes of identification, investigation, processing, release to parent, or arranging transfer to an appropriate juvenile facility or to court; in no event can the area be designed or intended to be used to residential purposes and the juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

Court Holding, page 30

A court holding facility is a secure facility, other than an adult jail or lockup that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings. Court holding facilities, where they do not detain individuals overnight, (i.e., are not residential) and are not used for punitive purposes or other purposes unrelated to a court appearance, are not considered adult jails or lockups for purposes of section 223 (a)(13) of the JJDP Act. However, such facilities remain subject to section 223 (a)(12) separation requirement of the JJDP Act.

IV. Others

Accused

A juvenile alleged to have committed an offense or charged with committing an offense (not yet adjudicated).

Adjudicated

The court has determined that it has been proven beyond a reasonable doubt that the juvenile has committed a delinquent act or status offense, or the juvenile has pled guilty to committing a delinquent act or status offense.

Delinquent

A person who has committed an offense before reaching the age of 17 which

would be a felony or misdemeanor under the criminal code of this state if committed by an adult, and is expressly found to be in need of counseling, supervision, treatment or rehabilitation as a consequence thereof.

Nonresidential areas

Areas within a secure facility such as sally ports, admissions and processing areas, and areas used for dining, education, recreation, vocational training, health care, the passage of inmates, etc.

Residential areas

Areas within a secure facility used for sleeping and hygiene purposes.

Time phasing

Use of the same non-residential area for adults and juveniles, but not at the same time. Written policies must be in place to ensure proper use and timing for each area.

Juvenile detention center

A secure facility used solely for the lawful custody of accused or adjudicated juvenile offenders and not adjoining an adult jail or lockup. In Vermont There is one juvenile detention center; The Woodside Juvenile Rehabilitation Center located in Essex Junction

Staff secure facility

A residential facility which does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein; which may establish reasonable rules restricting entrance to and egress from the facility and 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.

§ 5292. Detention in adult facilities of minors charged or adjudicated as delinquents

(a) A minor charged with a delinquent act shall not be detained under this chapter in a jail or other facility intended or used for the detention of adults unless the child is alleged to have committed a crime punishable by life imprisonment and it appears to the satisfaction of the court that public safety and protection reasonably require such detention.

(b) A minor who has been adjudicated as a delinquent child shall not by virtue of such adjudication be committed or transferred to an institution or other facility used primarily for the execution of sentences of persons convicted of a crime.

Attachment F

FACILITY _____
Dates Covered _____

JUVENILE HOLDING LOG

Revised 5/8/2012

Instructions:

1. Status Offenders shall not be confined securely. (Includes locked rooms, cuffing rails and stationary objects.
2. Alleged delinquents may not be held securely for longer than 6 hours before and after a court appearance.
3. Write down the most serious charge.

Definitions:

1. **Status Offender:** Juvenile charged with an offense that if committed by an adult, would not be a crime. Ie runaways, Truants
 2. **Delinquent:** Juvenile charged with or adjudicated for conduct which if committed by an adult would be a crime or individuals under age 18 charged with misdemeanor offenses
- S** Juvenile held securely while at facility
NS Juvenile held in non-secure setting while at facility

- W** White
A.I. American Indian
B African American
A Asian
P Pacific Islander
O Other
 Hispanic Y or N

Delinquent: Y = Yes N = No DK = Don't Know

If you need help or have questions call Tom Krug 802-769-6306 Theresa Lay-Sleeper 802 498-8890

Name/Initials	Sex	DOB	Race	Charge	Case#	Date & Time In	Officer	Date & Time Out	S/NS
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1.									
Remarks							Delinquent: Y <input type="checkbox"/> N <input type="checkbox"/> DK <input type="checkbox"/>		
2.									
Remarks							Delinquent: Y <input type="checkbox"/> N <input type="checkbox"/> DK <input type="checkbox"/>		
3.									
Remarks							Delinquent: Y <input type="checkbox"/> N <input type="checkbox"/> DK <input type="checkbox"/>		
4.									
Remarks							Delinquent: Y <input type="checkbox"/> N <input type="checkbox"/> DK <input type="checkbox"/>		
5.									

Attachment G
(Insert VT Title V Certification of Compliance Form)