



JJDPA Compliance Monitoring Manual

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Introduction

“It’s never wrong to do the right thing.”

-B. Brown

The Board of State and Community Corrections (BSCC) is the designated state agency to monitor compliance with the Juvenile Justice and Delinquency Prevention Act (JJDP) within the State of California.¹ The BSCC was established on July 1, 2012, as an entity independent of the Department of Corrections and Rehabilitation. Prior to the BSCC’s formation, the authority rested initially with the Board of Corrections and then the Corrections Standards Authority.

With the creation of the BSCC, California law abolished the Corrections Standards Authority and specifically named the BSCC as the successor entity. Any statutory references made to the Board of Corrections, or the Corrections Standards Authority refers to the BSCC, which is now vested with all the prior entity’s rights, powers, authority, and duties.² The BSCC’s authority encompasses all matters related to the JJDP, including grant administration, inspection, and data collection. This responsibility includes compliance monitoring of all jails and lockups for adults, including court holding facilities, secure detention facilities and secure correctional facilities.³

The JJDP is the seminal federal law that focuses on improving juvenile justice systems, while shaping how states deliver juvenile justice to youth and their communities. Among its many key components, the JJDP provides funding to state and local juvenile justice and delinquency prevention programs. The JJDP also establishes federal minimum standards for the protection, safety, care, and treatment of all youth who have contact with juvenile justice systems. These standards are more commonly known as the core requirements, which are the:

¹ The full text of the JJDP may be found at <http://www.ojdp.gov/compliance/jjact.pdf>

² Cal. Pen. Code § 6024(a) and (e) (2018).

³ Cal. Welf. & Inst. Code § 209(f).

1. Deinstitutionalization of Status Offenders (DSO);
2. Sight or Sound Separation;
3. Jail Removal;⁴ and
4. Removal of Juveniles Prosecuted as Adults from Adult Facilities (Section 223(a)(11)(B) Requirement).⁵

BSCC's Facility Standards and Operations Division (FSO) monitors facilities for compliance with the core requirements. In carrying out this task, FSO has developed an effective system of monitoring for compliance with the core requirements. This manual is the BSCC's policies and procedures for compliance monitoring.

Additional information on compliance monitoring may also be found at:

https://www.bscc.ca.gov/s_fsoservices/.

⁴ The JJDPa has a core requirement that intends to identify and reduce racial and ethnic disparities (R/ED), which was formerly known as Disproportionate Minority Contact (DMC). This core requirement is not part of compliance monitoring, but rather it is addressed through grant funding. The BSCC has a separate division that manages the R/ED grant program.

⁵ The 2018 reauthorization of the JJDPa resulted in the establishment of an additional core requirement. Pursuant to Section 223(a)(11)(B) and as of December 21, 2021, a juvenile charged as an adult cannot be detained in an adult jail or lockup facility and cannot have sight or sound contact with adult inmates in a secure adult facility, except in circumstances where Section 11133(a)(13) exceptions apply.

1. Compliance Monitoring Plan

Date Issued:	January 2019
Last Reviewed:	July 2022
Related OJJDP authority:	28 C.F.R. § 31.303(f)(1)(i)
Related California authority (if any):	n/a

Policy

The policies and procedures described in this manual shall constitute the BSCC's compliance monitoring plan for the State of California pursuant to 28 C.F.R. § 31.303(f)(1)(i), which requires that states must describe their policies and procedures for monitoring compliance with the core requirements. States must provide for an effective system of compliance monitoring, which consist of eight elements:

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

Procedures

1. BSCC reviews the manual on an annual basis each federal fiscal year.
2. The FSO Division is responsible for the annual review.
3. The Compliance Monitor is responsible for revising the manual to reflect changes in the JJDP, federal regulations, and OJJDP policy, as well as relevant changes in state authority.
4. Executive Management retains final review and approval.

2. Monitoring Authority

Date Issued:	January 2019
Last Reviewed:	July 2022
Related OJJDP authority:	34 U.S.C. § 11133(a)(1); 28 C.F.R. § 31.101
Related California authority (if any):	Cal. Pen. Code § 6024 ; § 6030(a) Cal. Welf. & Inst. Code § 209(f)

Policy

Pursuant to section 223(a)(2) of the JJDPA, each designated state agency must have authority to fully implement its Title II Formula Grant Program, including an effective system of monitoring adult jails, adult lockups, secure detention facilities, and secure correctional facilities to ensure that the core requirements are met.

Procedures

1. The BSCC is the designated state agency for monitoring compliance with the core requirements.
2. Penal Code section 6024 establishes the BSCC as an independent agency and vests the BSCC with all the rights, power, authority, and duties as the successor entity to the abolished Corrections Standards Authority and its predecessor, the Board of Corrections.
3. The rights, power, authority, and duties extend to all matters related to the JJDPA, including the power to inspect and collect relevant data from any facility that detains or confines juveniles pursuant to Welfare and Institutions Code section § 209(f).

Attachment

Monitoring Authority and Consequences for Noncompliance
Monitoring Authority and State Facilities

Monitoring Authority and Consequences for Noncompliance

The Board of State and Community Corrections (BSCC) is an independent statutory state agency that provides leadership to local adult and juvenile justice systems. Among its many responsibilities and duties, the BSCC also has authority regarding the detention of juveniles, such as, but not limited to:

- Developing minimum standards for local juvenile secure detention and correctional facilities⁶;
- Conducting biennial inspections of adult jails, adult lockups, local juvenile secure detention facilities, and local juvenile secure correctional facilities⁷,
- Inspecting any law enforcement facility that may constitute an adult lockup under the JJDPA and may not be in compliance with state law⁸;
- Collecting and reviewing information on the detention of status offenders⁹;
- Inspecting and collecting data from any facility that may be used to detain or confine juveniles.¹⁰

The BSCC also has the authority to inspect and develop minimum standards for local adult jails and adult lockups, which includes the treatment of juveniles detained or confined in adult jails and lockups, including court holding facilities.¹¹

⁶ Cal. Welf. & Inst. Code § 209; 210; 210.2; and 885. All statutory references are to the California Welfare & Institution Code unless otherwise noted. California's juvenile halls and special purpose juvenile halls constitute secure detention facilities and juvenile camps constitute secure correctional facilities under the JJDPA.

⁷ § 209(a)(3). BSCC authority for state minimum standards applies to local facilities, such as the local county sheriff's detention facility, a city's detention facility, or a local county probation department's juvenile detention facility or correctional facility. A separate state agency oversees the operation of state facilities, which is the California Department of Corrections and Rehabilitation. California law bestows a separate authority to BSCC to inspect and collect data from any facility pursuant to the JJDPA. § 209(f).

⁸ § 209(b)(1). BSCC has authority to inspect adult lockups that may be compliant with section 207.1, which reflects the Jail Removal requirement.

⁹ § 207(e).

¹⁰ § 209(f) ("shall inspect and collect relevant data from any facility that may be used for the secure detention of minors"). In accordance with the JJDPA, the BSCC has authority to inspect and collect data, whether state or local. The BSCC has carried out its responsibilities in cooperation of other state agencies without a memorandum of understanding.

¹¹ Cal. Pen. Code § 6030(a) and § 6031.

Section 209 of the Welfare and Institution Code addresses the consequences for noncompliance. Generally, if a facility, such as a juvenile secure detention facility or adult lockup that holds juveniles for more than 24 hours, or any law enforcement facility that contains an adult lockup, is found to be noncompliant with applicable laws and standards, then the BSCC may determine such a facility as unsuitable for the confinement of juveniles. As a result, the facility must be closed until the agency remedies the noncompliance issues and the BSCC conducts a reinspection for compliance. The state's consequences for noncompliance could be applied to violations of the JJDPA core requirements because California law mirrors the core requirements.

California bestows similar monitoring authority on local presiding judge of the juvenile court in a county to annually inspect any adult jail, any secure detention facility, or any adult lockup that may be used for the confinement of any juvenile for more than 24 hours. This type of inspection is independent, separate, and distinct from the BSCC's biennial inspection process and the BSCC's compliance monitoring process. Accordingly, a local juvenile court judge may determine whether an adult jail or lockup, secure juvenile detention facility, or secure juvenile correctional facility is "unsuitable" the confinement of juveniles and may also close a facility until corrective action is taken.

Monitoring Authority and State Facilities

The Board of State and Community Corrections (BSCC) is established as California's Designated State Agency (DSA) for administering the state's Title II Formula Grant Program as well as executing the state's juvenile justice plan. ([Pen. Code, § 6024.](#))

The BSCC is authorized to monitor local jails, lockups, secure detention, and secure correctional facilities in the state. ([Pen. Code, § 6031](#); [Welf. & Inst. Code, § 209\(a\)\(3\).](#))

These facilities operate within the state's city and county jurisdictions. Regarding compliance with the federal Juvenile Justice and Delinquency Prevention Act, BSCC authority extends to any facility in the state in which juveniles may be detained. ([Welf. & Inst. Code, § 209\(f\).](#))

The BSCC's authority does not unilaterally extend to facilities operated by other state agencies. For example, the BSCC does not have authority over the California Department of Corrections and Rehabilitation (CDCR), which operates secure state detention or correctional facilities for juveniles or adults. ([Pen. Code, § 6031.](#))

Without express authority or a formal MOU, the BSCC has historically monitored the state correctional facilities in cooperation with CDCR. Presently, there are four state juvenile facilities. Three secure juvenile correctional facilities will close on or before June 30, 2023, as part of the state's commitment to shift treatment and rehabilitative services for juveniles from the state to local counties. ([California Senate Bill 92, Chapter 18, Statutes of 2021.](#)) Consequently, the only state juvenile facility remaining is a nonsecure fire camp for youth (i.e., [Pine Grove Youth Conservation fire camp](#)).

California has a long-standing prohibition against detaining juveniles in adult state prisons. In 1907, the California Legislature passed a resolution that removed underage youth from state prisons like San Quentin to juvenile reform schools. (California Senate Bill 6, 1907.) Since then, California law has reaffirmed its commitment to juveniles by passing numerous protections, and clarifying and expanding juvenile court jurisdiction. Nonoffenders, status offenders, and juvenile offenders remain under juvenile court jurisdiction. (Welf. & Inst. Code, §§ [300](#), [601](#), and [602](#).) Juveniles charged as adults

remain in a local juvenile correctional facility even after conviction. ([Welf. & Inst. Code, § 1955.2.](#))

The BSCC has historically visited a sampling of state prisons and verified the absence of juveniles detained in facilities operated by CDCR when required by OJJDP and through an informal agreement with CDCR. Until OJJDP requires the BSCC to have a formal memorandum of understanding (MOU) with CDCR to formally establish the absence of juveniles detained in such facilities including programs in which juveniles may come into contact with adult inmates, then the BSCC will continue to confirm the absence of juveniles detained by CDCR through informal as needed by OJJDP.

3. Key Definitions

Date Issued:	January 2019
Last Reviewed:	July 2022
Related OJJDP authority:	34 U.S.C. § 11103; 28 C.F.R. §§ 31.303 – 31.304
Related California authority (if any):	n/a

Policy

The federal definitions, for purposes of compliance monitoring, are only those provided in the JJDPA at 34 U.S.C. § 11103 the Formula Grants Program Regulation at 28 C.F.R. § 31.304.

Procedures

1. The BSCC must use the federal definitions in all aspects of its compliance monitoring system. Where the state definitions of a term differ from the federal definition, the BSCC will apply the federal definition.
2. The attachment includes the key federal definitions provided in the OJJDP's Annotated Manual.
3. The attachment is reviewed annually and updated as needed to reflect any changes implemented through federal law, regulations, or OJJDP policy, as well relevant changes in state authority.

Attachment

Key Federal Definitions vs. California Definitions Chart

Key Federal Definitions vs. California Definitions Chart

Federal Definition	California similarity or difference
<p>ADULT INMATE 34 U.S.C. § 11103 (26) – means an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense, and does not include an individual who (1) at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable state law; and (2) was committed to the care and custody or supervision, including post-placement or parole supervision, of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable state law.</p>	<p>There is no comparable definition.</p> <p>In California, the age of majority is when an individual reaches 18 years of age. Cal. Welf. & Inst. Code § 601 (defines a ward under juvenile court jurisdiction as a minor between 12 and 17 years of age. See also Cal. Fam. Code § 6501 (defining adult as person over 18 years of age and older).</p>
<p>ASSESSMENT 34 U.S.C. 11103(38) – includes, at a minimum, an interview and review of available records and other pertinent information – (A) by an appropriately trained professional who is licensed or certified by the applicable state in the mental health, behavioral health, or substance abuse fields; and (B) which is designed to identify significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth’s confinement.</p>	<p>There is no comparable state term.</p>
<p>COLLOCATED FACILITIES 34 U.S.C. § 11103 (28) – means facilities that are located in the same building or are part of a related complex of buildings located on the same grounds.</p>	<p>California law essentially mirrors the federal definition. Cal. Welf. & Inst. Code § 207.1(f).</p>
<p>CORE REQUIREMENTS</p>	<p>There is no comparable state term. While versions of the core requirements are</p>

<p>34 U.S.C. § 11103 (30) – means the requirements described at 34 U.S.C. § 11133(11), (12), (13), and (15).</p>	<p>codified in California, the actual phrase is not used.</p> <p>The BSCC uses the phrase “core requirements” in this manual and in its compliance monitoring process.</p>
<p>CRIMINAL-TYPE OFFENDER 28 C.F.R. § 31.304(a) – means a juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime, if committed by an adult.</p>	<p>There is no comparable state term.</p> <p>California law addresses minors whose cases may be transferred from juvenile court to a court of criminal jurisdiction. Cal. Welf. & Inst. Code § 707. These proceedings are commonly referred to as “fitness hearings,” where the judge determines whether the juvenile’s case is fit to remain in juvenile court jurisdiction.</p>
<p>DETAIN OR CONFINE 28 C.F.R. § 31.304 (b) – means to hold, keep, or restrain a person such that he or she is not free to leave or that a reasonable person would believe that he is not free to leave. The exception is a juvenile that law enforcement holds solely to return him to his parent or guardian or pending his transfer to the custody of a child welfare or social service agency. In this case, the youth is not detained or confined within the meaning of this definition.</p>	<p>There is no comparable state term.</p> <p>California law uses the terms “detain,” “held,” “securely detained” and “secure detention” and “secure custody” interchangeably to denote a person is detained or confined. Cal. Welf. & Inst. Code § 207.1; see also 15 C. C. R. Art. 9, § 1145, §1146.</p>
<p>INSTITUTION Compliance Monitoring TA Tool; Dept. of Justice, Juvenile Justice and Delinquency Prevention Act Formula Grant Program, 82 <i>Federal Register</i> 4,787 fn. 4 (Jan. 17, 2017). means “a secure facility that law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or adults (1) accused of having committed a delinquent or criminal offense, (2) awaiting adjudication or trial for the delinquent or criminal offense, or (3) found to have committed the delinquent or criminal offense.”</p>	<p>There is no state counterpart.</p>

<p>JAIL OR LOCKUP FOR ADULTS 34 U.S.C. § 11103 (22) – means a secure facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adult inmates. Per the 2018 reauthorization, jail or lockup for adults includes court holding facilities.</p>	<p>California has many different types of detention facilities that may qualify as a “jail or lockup for adults.”</p> <p>A Type I facility is generally a city jail or lockup that detains or confines persons for not more than 96 hours after booking. A Type II facility is a county jail or lockup that detains or confines persons pending arraignment, during trial, or awaiting sentencing. A Type III facility is a jail use for persons convicted and sentenced. Cal. Pen. Code § 6031.4; 15 C.C.R. § 1006.</p> <p>A law enforcement facility is an adult lockup that detains or confines persons in a locked room or secure enclosure under the control of a peace officer. Cal. Welf. & Inst. Code § 207.1(d)(3); 15 C.C.R. § 1006.</p> <p>A court holding facility is an adult jail or lockup that is used for the confinement for a court appearance. Cal. Pen. Code § 6031.4; 15 C.C.R. § 1006. A court holding facility does not include an area within a courtroom or a public area in the courthouse.</p>
<p>JUVENILE OFFENDER 28 C.F.R. § 31.304 (d) – means an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by state law (i.e., a criminal-type offender or a status offender).</p>	<p>The age of majority in California is 18 years old. California law defines a minor as a person under 18 years of age. Section 602 of the Welfare and Institution Code establishes which persons may fall within the juvenile court jurisdiction and thus, who may be determined as wards of the court.</p>
<p>MAXIMUM AGE OF EXTENDED JUVENILE COURT JURISDICTION Compliance Monitoring TA Tool by OJJDP – means the age above which a juvenile court may no longer exercise jurisdiction under state law.</p>	<p>A juvenile court may exercise extended jurisdiction over a person until they attain the age of 21, 23, or 25 years depending on the offenses and aggregate sentence length. Cal. Welf. & Inst. Code § 208.5 and § 607.</p>

<p>MONITORING UNIVERSE Compliance Monitoring TA Tool – means all public and private facilities in which law enforcement or criminal or juvenile court authority detain juveniles and/or adult inmates.</p>	<p>There is no comparable state term.</p> <p>The BSCC uses the federal term in its compliance monitoring system.</p>
<p>NONOFFENDER 28 C.F.R. § 31.304 (i) – means a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.</p>	<p>There is no direct state counterpart.</p> <p>However, the federal meaning is analogous to the state’s definition for “dependent children.” Cal. Welf. & Inst. Code § 300 (describes situations when a child is under juvenile court jurisdiction and a dependent).</p>
<p>RESIDENTIAL Compliance Monitoring TA Tool; Dept. of Justice, Office of Justice Programs, 61 <i>Federal Register</i> 65,132 (Dec. 10, 1996). means equipped with beds, cots, or other sleeping quarters and has the capacity to provide for overnight accommodations for juveniles or adults who are accused of committing or who have committed an offense.</p>	<p>There is no state counterpart. By operation of law, California defines local detention facilities as places constructed for the non-temporary use of confinement of juveniles or adult inmates. Accordingly, local detention facilities must comply with specific building codes and minimum standards that relate to the federal term of “residential” such as sleeping areas, living areas, health, sanitation, and the like.</p> <p>Accordingly, in California, adult jails, secure juvenile detention facilities, and secure juvenile correctional facilities are residential. In contrast, adult lockups are generally not residential. During on-site inspections, Compliance Monitors assess whether a lockup displays certain features that may qualify it as “residential” under the JJDP.</p>
<p>SECURE as defined under 28 C.F.R. § 31.304 (m) and used to define a detention or correctional facility – includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in</p>	<p>Secure means that a juvenile is held in temporary custody in a law enforcement facility is locked in a room or enclosure and/or is physically secured to a cuffing rail or other stationary object. 15 C.C.R. § 1006.</p>

<p>custody, such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.</p>	<p>The California definition is like the federal definition because both definitions require a construction feature or physical structure that physical restrains a person’s movement or activity. Whereas the federal definition expressly states that the use of staff supervision alone is not “secure,” California law implies it.</p>
<p>SECURE CORRECTIONAL FACILITY 34 U.S.C. § 11103 (13) – means any public or private residential facility which—(1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.</p>	<p>In California, a juvenile camp constitutes a secure juvenile correctional facility under the JJDP. A camp can mean a camp, ranch, forestry camp or boot camp. All are secure correctional facilities for post-adjudicated youth. Cal. Welf. & Inst. Code § 881; 15 C.C.R. § 1302.</p>
<p>SECURE DETENTION FACILITY 34 U.S.C. § 11103 (12) – means any public or private residential facility which— (1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.</p>	<p>California has two main types of detention facilities that meet the federal definition of a “secure detention facility.”</p> <p>A juvenile hall is a secure juvenile detention facility used for the reception and care of wards or dependent children under juvenile court. Cal. Welf. & Inst. Code § 850; 15 C.C.R. § 1302.</p> <p>A special purpose juvenile hall is a secure juvenile detention facility used for the temporary confinement of a youth, not to exceed 96 hours, prior to transfer to a juvenile hall or release. <i>Id.</i></p>
<p>SIGHT OR SOUND CONTACT 34 U.S.C. § 11103 (25) – means any physical, clear visual, or verbal contact that is not brief and inadvertent.</p>	<p>California law prohibits contact between minors, defined as under 18 years of age, and adults with limited exceptions. Cal. Welf. & Inst. Code § 208. Regulations define contact as any physical or sustained sight or sound contact between juveniles in detention and incarcerated</p>

	<p>adults, whereas sight contact is clear visual contact and sound contact is direct oral communication. 15 C.C.R. § 1006.</p> <p>The BSCC applies the federal definition while educating stakeholders on the similarities and differences between state and federal terms.</p>
<p>STATE 34 U.S.C. § 11103(7)– means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.</p>	<p>Unlike the federal definition, California defines “state” as “the State of California and any of its agencies or departments.” CAL. CONST. art. 1, § S 19.</p> <p>The BSCC adheres to the federal definition in its compliance monitoring system.</p>
<p>STATUS OFFENDER 34 U.S.C. § 11103(42) – means a juvenile who is charged with or has committed an offense that would not be criminal if committed by an adult.</p>	<p>California defines “status offender” as a juvenile between the ages of 12 and 17 years, who has committed offenses such truancy or curfew violations. Cal. Welf. & Inst. Code § 601.</p>
<p>TWENTY-FOUR HOURS Compliance Monitoring TA Tool – means a consecutive 24-hour period, exclusive of any hours on Saturdays, Sundays, public holidays, or days on which the courts in a jurisdiction otherwise are closed.</p>	<p>There is no state counterpart.</p> <p>The BSCC adheres to the federal definition in its compliance monitoring system.</p>
<p>VALID COURT ORDER 34 U.S.C. § 11103(16) – means a court order that a juvenile court judge gives to a juvenile who was brought before the court and made subject to the order and who received, before the issuance of the order, the full due process rights that the U.S. Constitution guarantees to the juvenile.</p>	<p>California prohibits status offenders, who are found in contempt of court, from being detained or confined in a secure detention or correctional facility with limited exceptions. California Senate Bill 1296; Cal. Code Civ. Pro. § 1219(c); Cal. Welf. & Inst. Code § 601(b).</p> <p>The BSCC’s VCO Exception Checklist self-report form that incorporate both federal and state exception criteria. Facilities are required to complete and submit the VCO Exception Checklist form.</p>

4. Monitoring Universe

“My universe is my eyes and my ears. Anything else is hearsay.”

- D. Adams

The phrase “monitoring universe” is a term of art commonly used in the compliance monitoring field. It refers to all secure facilities in a state or territory that are jails and lockups for adults, court holding facilities, secure detention facilities, and secure correctional facilities. It takes many skilled individuals working closely together to properly identify, classify, and inspect and verify whether a facility belongs in the monitoring universe, especially for California’s vast monitoring universe.

This section of the manual describes the BSCC’s process of identifying, classifying, and inspecting facilities within California’s monitoring universe.

4.1 Identification

Date Issued:	January 2019
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Related OJJDP authority:	34 U.S.C. § 11133(a)(14); 28 C.F.R. § 31.303(f)(1)(i)(A)
Related California authority (if any):	n/a

Policy

The JJDP Act requires that states identify all secure facilities in a state's monitoring universe. The monitoring universe should include all jails or lockups for adults including court holding facilities, secure detention facilities, and secure correctional facilities.

Procedures

A. The FSO Division

The FSO Division is responsible for the inspection process. As a result, FSO staff participate in the identification process. See chart and descriptions below.



1. **FSO Deputy Director:**

Oversees all aspects of the FSO Division, which is responsible for establishing minimum standards for secure facilities, conducting state inspections, conducting compliance monitoring inspections, collecting data, and providing technical assistance law enforcement agencies.

2. Compliance Monitors:

Full-time staff serve as compliance monitors. Additionally, one retired annuitant serves as an additional compliance monitors. Compliance monitors conduct on-site compliance monitoring inspections. One designated compliance monitor will act in a lead capacity by preparing and submitting data to OJJDP's Online CM Tool, revising the compliance monitoring manual, serving as liaison to OJJDP, and providing internal training and technical assistance.

3. Field Representatives:

Acts as Compliance Monitors and conducts compliance monitoring inspections to certain adult jails in tandem with state biennial inspections.

4. Standards and Compliance Officer (Compliance Officer):

Oversees staff who support and serve the compliance monitoring system. Supervises analysts who provide support and assistance to compliance monitors, manages all the data in our monitoring universe, and communicates with stakeholders. Assists in the preparation and submission of the compliance monitoring annual reporting requirements.

5. Compliance Monitoring Analyst (CM Analyst):

Collects, reviews, and records data collected from the annual surveys, monthly reports, and other reporting tools from all facilities in the monitoring universe. Manages and updates the electronic database and physical files related to the monitoring universe. Communicates with reporting facilities as necessary. Provides support to compliance monitors and Field Representatives on compliance monitoring issues. Provides information and referral to reporting law enforcement agencies.

B. Sources for Identification

The BSCC's compliance monitoring system uses four sources for the annual and ongoing identification of facilities for the monitoring universe.

Federal Classification	Annual Survey	Inspection	Plan Review	Law Enforcement Associations
Adult jail	X	X	X	X
Adult lockup	X	X	X	X
Court holding facilities	X	X	X	X
juvenile detention facilities	X	X	X	X
juvenile correctional facilities	X	X	X	X
State correctional facilities	The California Department of Corrections and Rehabilitation (CDCR) operates state facilities. CDCR maintains a current list of all adult and juvenile correctional facilities on its website. Additionally, in cooperation with CDCR, the BSCC collects data, conducts inspections, and provides technical assistance to the state juvenile facilities.			
Private facilities	This BSCC's authority may extend to any facility that detains or confines persons under contract on behalf of a city, county, or city and county. ¹²			

1. Annual Survey:

FSO updates the monitoring universe annually from data collected by the various annual surveys based on the federal classification:

- [Adult jails and lockups, which includes Court holding facilities](#)
- [Secure Juvenile Detention and Correctional facilities](#)
 - The BSCC survey does not include state prisons or the state juvenile correctional facilities.

¹² [Cal. Penal. Code § 6031.4.](#)

The CM Analyst distributes the surveys in the beginning of the calendar year. Then the analyst collects and reviews survey responses, requests clarification if needed, and updates the database for the monitoring universe.

2. Inspections:

FSO learns of secure facilities that should be added to the compliance monitoring universe from inspections. The monitoring universe may be updated based on the information observed, collected, and discovered during inspections. For example, under California Penal Code section 6029, state inspections involve the review of plans and specifications for secure facilities for compliance with state Minimum Standards. As new facilities are planned and constructed, they are appropriately added to the monitoring universe.

3. Plan Review:

FSO is also responsible for review and approval of secure facilities, which include facility construction, reconstruction, remodeling, or repair project plans that exceed a cost of \$15,000 (Cal. Pen. Code § 6029). Occasionally, FSO may learn of new or remodeled facilities during the plan review process. FSO may also learn of new or remodeled facilities from another division; specifically, from BSCC's County Facilities Construction (CFC) Division, which works collaboratively with other state and local government agencies and administers financing for such projects.

4. Law Enforcement Associations:

Lastly, FSO may learn of new or remodeled facilities from BSCC's participation in various law enforcement associations, such as, but not limited to: [California State Sheriff's Association](#), [Chief Probation Officers of California](#), COPSWEST, USACOPS.com. Executive management participate in meetings as members or facilities. Additionally, the FSO Deputy Director may designate a staff member to attend meetings or participate in workgroups on behalf of the BSCC.

4.2 Classification

Date Issued:	January 2019
Last Reviewed:	July 2022
Related OJJDP authority:	34 U.S.C. § 11103(22); 34 U.S.C. § 11103(12); 34 U.S.C. § 11103(13); 28 C.F.R. § 31.303(f)(1)(i)(B)
Related California authority (if any):	n/a

Policy

The JJDPa requires states to classify each facility in its monitoring universe according to the federal classifications.

Procedures

FSO staff review the federal classification of all facilities in its monitoring universe on an annual and on-going basis. Per the JJDPa, facilities must be classified one of the following classifications:

- Adult jail or lockup, which includes court holding facilities
- Secure detention facility, which can be juvenile or adult
- Secure correctional facility, which can be juvenile or adult

The federal classification of a facility involves two steps: (1) whether a facility is “secure” as defined under the JJDPa and (2) determination of the target population.

A. Determination of whether a facility is secure

To determine whether a facility is secure, compliance monitors must identify and document the presence of construction that can be used to restrain or limit the movements of a person in custody. Some examples of such construction features are a cell, locked room, cuffing bench, cuffing fixture, and other secured enclosure.

FSO relies on two tools to make the determination: annual survey and inspection.

- Annual Survey: Facilities must report whether they have the capacity to detain or confine, and then specify what construction features are present within the facility

in the annual survey. The CM Analyst will record a facility's response to an annual survey in the database for the monitoring universe.

- Inspection: Then a compliance monitor will inspect the facility. If a facility has any of these construction features, then it means the facility can detain or confine an adult inmate. If they can detain or confine an adult inmate, then they can also detain or confine a juvenile. Therefore, the compliance monitor will classify the facility as a secure.

The issue of whether a facility is secure or nonsecure remains one of most frequently asked questions among stakeholders in the field. Below are some examples for further study.

HYPOTHETICAL #1:

Rainbow County Sheriff's Department has a storefront location at a local mall. The storefront has a lobby with waiting chairs for the public. There is administrative staff to greet the public and answer any questions. Additionally, there is one officer assigned to the location. When she is not on patrol, she works in her office in the storefront. Occasionally, the Officer may allow a child or teenager to wait for their parents on the office couch behind the reception desk

Is the facility secure under the JJDPA?

No. There does not appear to be any construction features within the facility that can be used to detain or confine a person. That is, the storefront does not have a cell, locked room, cuffing fixture, and any other secure mechanism in place. If a compliance monitoring inspection confirms there is no presence of such secure features, then the compliance monitor may determine the facility is not secure. Nonsecure facilities are not part of the monitoring universe. A compliance monitor may request that the analyst remove the Rainbow County Sheriff storefront from the monitoring universe.

HYPOTHETICAL #2:

Fog City Police Department moved out of its location at a 100 year old building because their department had grown. The Chief of Police completed the annual survey for its new location and its responses indicate that the facility may be nonsecure. The compliance monitor still schedules an inspection. While walking through the facility, the Chief shows the compliance monitor three interview rooms. The compliance monitor asks whether the rooms can be locked. The Chief replies that the rooms can be locked, but no one has a key, and we leave them unlocked. The compliance monitored observed no other construction features that could restrict movement.

Is the facility secure under the JJDPA?

Yes. The facility has three interview rooms where a person can be locked inside, and their movement would be restricted. It does not matter whether the department keeps them unlocked or a staff person does not have a key. The facility is properly determined as secure under the JJDPA.

HYPOTHETICAL #3:

Belcher Police Department operates its headquarters in the city's old bank building. The department created offices and rooms in the old vaults. The county jail is located nearby, so officers normally take adults to the jail for processing. Sometimes an officer cannot take them immediately, so the officer may place a person in one of two interview rooms at the headquarters.

Is the facility secure under the JJDPA?

It depends. A compliance monitor will need to contact the department and conduct a compliance monitoring inspection to detect the presence of any construction features that could restrict the movements of a person in custody. Specifically, a compliance monitor should assess the interview room's location, whether the interview rooms may be locked, and whether there are construction features within them, such as

a cuffing bolt affixed to the door, floor, or stationary object. A compliance monitor may even assess whether the old vaults have been permanently disabled and unable to lock.

Once a compliance monitor determines that a facility is secure and belongs in the monitoring universe, the next step is to properly classify it. The federal classification of facility depends on many features, such as whether a facility confines juveniles, adult inmates, or both populations, and whether a facility meets the federal definition of residential or nonresidential.

B. Determination of a facility's target population

To determine a facility's target population, FSO relies upon three sources of information:

- Law: State law generally defines the target population of a secure facility. For example, adult jails are generally city jails and county jails. State law prohibits city and county jails from detaining or confining juveniles.
- Annual Survey: Facilities must complete an annual survey from the BSCC. The CM Analyst will record a facility's response to an annual survey in the database for the monitoring universe. A facility's response informs a facility's initial classification.
- Inspection: Then compliance monitors will either confirm or update a facility's target populations through an on-site inspection. A compliance monitor will conduct a visual confirmation, as well as review of a facility's records.

The last step involves determining whether a facility is residential as defined in the JJDP. "Residential" means that a facility is equipped with beds, cots, or other sleeping quarters and has the capacity to provide for overnight accommodations for juveniles or adults who are accused or who have committed an offense.

To determine whether a facility is residential, FSO relies on two sources:

- Law: Under state law, certain facilities may be "residential" because they must comply with building codes that govern capacity for overnight accommodations. For example, city jails, county jails, juvenile detention

facilities, and juvenile correctional facilities qualify as “residential” under the JJDPa because state law requires these facilities to comply with minimum standards over bed size, access to water and bathrooms, and other features that relate to providing overnight or longer term accommodations.

- Inspection: Additionally, staff can confirm whether a facility has certain features and possesses capacity that meet the federal definition of “residential” during inspection.

It is important to note that the lead Compliance Monitor makes the final determination on the federal classification of a facility.

Attachment

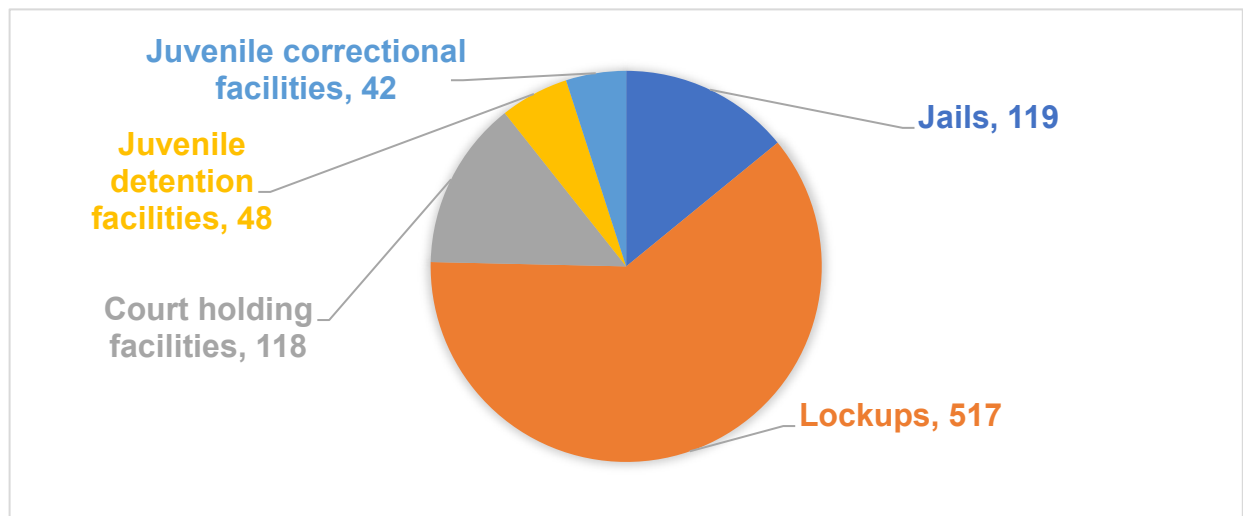
Federal Classification Chart of California facilities

Federal Classification Chart of California facilities

Each facility in the Monitoring Universe is classified using the federal classifications. California has several types of detention and correctional facilities. This tool organizes the several types of California facilities into the appropriate federal classification.

Federal Type	California facilities	FFY 20 Total¹³
Adult Jail	Type II, III, and IV detention facilities	119
Adult Lockup	Type I facilities Law enforcement facilities Administrative Stations that have a cuffing fixture Lockup facilities Lockup facilities constructed before 1978 Temporary Holding Facilities	517
Adult Jail or Lockup	Court holding facilities	118
Secure Juvenile Detention Facility	Juvenile Halls Special Purpose Juvenile Halls	48
Secure Juvenile Correctional Facility	Juvenile Camps State juvenile correctional facilities	42

FFY 2020 MONITORING UNIVERSE



¹³ Data is from the compliance monitoring data submitted to OJJDP for the FY 2020 Solicitation.

4.3 Inspection

Date Issued:	January 2021
Last Reviewed:	July 2022
Related OJJDP authority:	28 C.F.R. § 31.303(f)(1)(i)(C); § 31.303(e)(3)(iv)
Related California authority (if any):	n/a

Policy

The JJDP A requires states describe procedures for conducting compliance monitoring inspections. It also requires the use of the Federal Fiscal Year, which runs from October 1st through September 30th of the following year. OJJDP recommends that states inspect 100% of all secure facilities in a state’s monitoring universe within a three-year period.

Procedures

A. Primary Objectives of Inspection

1. Confirmation of federal classification.¹⁴
2. Review of a facility’s record keeping system.
 - Federal regulation requires states to review record keeping systems based on whether it maintains sufficient data to determine compliance. OJJDP policy requires, at minimum, that the system record: Name or ID number, gender, date of birth, most serious charge, Date/Time of entry, and Date/Time of exit or release. California law requires facilities to capture such information.
3. Monitor compliance with the core requirements.

¹⁴ The JJDP A requires that inspections be on-site and in-person. OJJDP has not authorized virtual inspections. The BSCC considers virtual inspection as an option of last resort. The use of virtual inspection requires justification and prior approval.

B. Inspection Process

The inspection process for compliance monitoring is similar for all facilities with some modification made for the applicable core requirements, which depends upon the federal classification.¹⁵

Prior to Inspection

1. Compliance Monitors will contact the facility with a request for a compliance monitoring date, request for current policy and procedures on juveniles, and questions on the monitoring process.
2. Compliance Monitors will review any data, reports, and survey responses received from a facility prior to inspection and may verify such data during inspection.
3. Compliance Monitors will review any reports from third parties if any.
4. Compliance Monitors will finalize the date of inspection, the presence of certain parties for interviews, and access to certain records.

During the Inspection

5. Compliance Monitors will review records, such as detention logs or admittance records, for inconsistencies with what was reported to the BSCC.
6. At all inspections, Compliance Monitors will confirm, update, or revise the federal classification of a facility.

¹⁵ Nonsecure facilities (NS) are not part of the monitoring universe, and any nonsecure facilities are removed. The BSCC uses its annual surveys as a tool to capture if nonsecure facilities change and require inspection and reclassification.

7. Compliance Monitors will use the JJDP A Inspection Report form during the inspection to determine and document any instances of potential or unreported violations of the core requirements.
8. At the close of the inspection, Compliance Monitors should meet with the facility's leadership or designated contact person to discuss findings and observations, recommendations, technical assistance, and address any questions regarding compliance monitoring.

Following the Inspection

9. Within 60 days after the inspection, Compliance Monitors will complete the compliance monitoring report and share a final copy with the CM Analyst for proper record keeping. Compliance Monitors must share the report with the agency's contact and agency head.

C. Applicable Core Requirements

The inspection process will vary slightly depending on what core requirements are applicable.

Adult jails or lockups

California law prohibits nonoffenders, status offenders, and juvenile offenders from being detained or confined in adult jails with limited exceptions.¹⁶ In tandem with the state inspections, Compliance Monitors inspect for the following:

- Whether the facility detains or confines juveniles at all
- Whether the facility detains or confines juveniles within the jail
- Whether the facility detains or confines accused juveniles tried as adults
- If an adult jail has detained or currently detains a juvenile, staff must obtain the requisite information, document the situation, and notify the lead Compliance Monitor.

¹⁶ Cal Pen. Code § 207.1.

- Staff must assess and document whether an adult lockup meets the federal definition of “residential.”
 - Does it have the capacity to detain a juvenile overnight?
 - Is there a bed or other sleeping quarters?
 - If a lockup qualifies as “residential,” then staff must determine compliance with the DSO Requirement.
- Whether a facility has construction features or fixtures designed to physically restrict the movement and activities of persons
 - Examples: lock on door whether the door is actually locked, cuffing rail or bench
- Whether the facility has adequate features or practices in place to provide adequate sight or sound separation.
 - Must conduct a walkthrough and document areas observed.
 - Should interview agency staff and officers.
 - Where are juveniles confined? Where are adults confined?
 - How is sight or sound separation maintained? What policies and practices are in place? Is practice consistent with policy?
 - If their safeguards adequate?
- If a lockup detains juveniles, then staff must review records, such as detention logs, to determine compliance with the Jail Removal Requirement.
 - Review the Entry Date and time and the Release Date and Time. The total time should not exceed 6 hours.
 - Review the reasons for detention and any charges listed. Status offenders and nonoffenders should not be detained or confined for any length of time. Ideally, status offenders and nonoffenders should be observed in a nonsecure area instead.
 - Review whether the entries are complete. A facility’s record keeping system must be adequate and record enough information for determination of compliance with the core requirements.

Court holding facilities

In California, court holding facilities are not “residential” under the JJDP, and accordingly, the DSO Requirement does not apply. Compliance Monitor should inspect for the Sight or Sound Separation and Jail Removal core requirements in the same manner as for adult jails or lockups. It is important to note that the Jail Removal requirement does not apply to the courtroom or nonsecure areas of the courthouse. Consequently, time spent in the courtroom or in a public or nonsecure area of the courthouse, such as a lobby, does not count toward the six hour limit.

Secure Juvenile Correctional or Detention Facility

Compliance Monitors monitor for compliance with the DSO Requirement. The facility should not detain or confine nonoffenders or status offenders. Even though these facilities are intended for juveniles, Compliance Monitor should monitor for the Sight or Sound Separation Requirement and confirm no “adult inmate” is admitted and may inquire whether adult inmates are present for other reasons, such as delivering meals or providing laundry service.

Secure Adult Correctional Facility

Compliance Monitors should confirm that accused juveniles under adult court are not detained or confined in the facility absent a court order.

Collocated Facility

California law requires individuals who work with both juveniles and adult inmates, to have been trained and certified to work with juveniles.¹⁷ Compliance Monitors must inspect collocated facilities annually for compliance with the Sight or Sound Separation requirement and additional requirements.

- Compliance Monitor must document what records were reviewed during the inspection and from what time period.

¹⁷ Pen. Code § 830 *et seq.*; Gov. Code § 1029 *et seq.*; Welf. & Inst. Code § 207.1(f)(4); Cal. Code Regs., tit. 15, § 131.

- Must document what areas were observed and assessed
- Must address whether a facility has adequate mechanisms, practices, and policies in place to maintain sight or sound separation
- Must assess whether a facility meets the additional requisite separateness as defined in federal regulations. 28 C.F.R. § 31.303(e)(3):
 - No sustained sight or sound contact between juveniles and adult inmates.
 - Is it achieved through architecture? Designated separate areas? Modifications? Or time-phasing of common use nonresidential areas?
 - Separate juvenile and adult programs.
 - No programs may be shared.
 - Is there an independent and comprehensive operational plan?
 - Is there time-phase of common use nonresidential areas?
 - Is there shared equipment? Any security or safety concerns?
 - Does the facility meet state minimum standards?

D. Charts on the frequency of inspections and inspection process.

Federal classification	Frequency	Percentage Inspected Within Three Years
Collocated Facilities	100% annually	N/A
Secure Juvenile Detention Facilities	biennially	OJJDP recommends 100%
Secure Juvenile Correctional Facilities	biennially	OJJDP recommends 100%
Jail or lockups for adults, including Court Holdings¹⁸	biennially or triennially	OJJDP recommends 100%

¹⁸ Effective FY 2021, court holding facilities are considered secure facilities within the definition of an adult jail or lockup. States must inspect court holding facilities for compliance with the Jail Removal Requirement in addition to the existing Sight or Sound Separation requirement.

The Compliance Monitoring Inspection Process

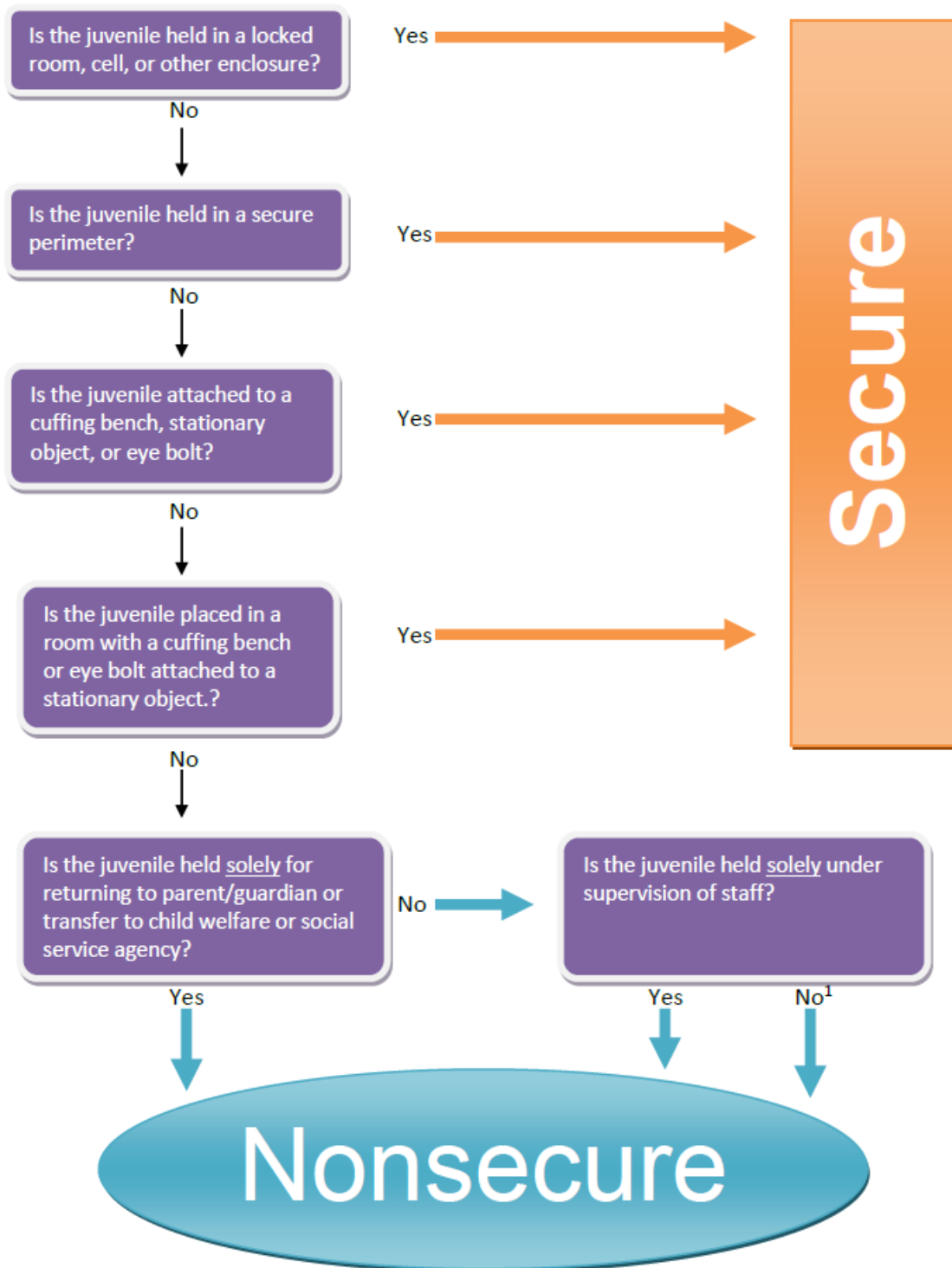
Who is responsible?	<p>Adult jail or lockup Field Representative (facility has BSCC number) Compliance Monitor (facility does not have BSCC number)</p> <p>Secure juvenile detention or correctional facility Field Representative</p> <p>Collocated Facility Compliance Monitor</p>
How do I prepare?	<ol style="list-style-type: none"> 1. Request and review policy and procedures on juveniles. 2. Review facility's response to annual survey. 3. Review if facility self-reported any violations.
What to do?	
DSO	<ul style="list-style-type: none"> • Review records, such as detention logs. • Are there nonoffenders or status offenders? • Are there incidents of warrant or probation violations? <ul style="list-style-type: none"> ○ If so, what is the underlying delinquent offense. Otherwise, it could be violation.
Section 223(a)(11)(B)	<ul style="list-style-type: none"> • Are there accused juveniles charged as adults detained in an adult facility per a written court order? • Are all section 223(a)(11)(B) requirements met?
Sight or Sound Separation	<ul style="list-style-type: none"> • Conduct a walkthrough. Interview staff. • Where are juveniles confined? In what manner? Is it same area or near where adults may be confined? • How does the facility maintain sight or sound separation? Are their measures adequate?
Jail Removal	<ul style="list-style-type: none"> • Review records. Note the Entry Date and Time and the Release Date and Time. The total time should not exceed 6 hours. • For court holding facilities, time spent in the courtroom, or a public area of the court does not count toward the cap.
What next?	<ol style="list-style-type: none"> A. Submit completed report to appropriate analyst. B. If facility did not respond to survey, submit a completed survey to the appropriate analyst.

Attachments

JJDPA Secure vs. Nonsecure

JJDPA Core Requirements Chart

JJDP A Secure vs Nonsecure



¹ Note: California law has requirements for the supervision of nonsecure detentions.

JJDP Core Requirements Chart

PROHIBITS		FACILITIES	EXCEPTIONS
DSO 34 U.S.C. § 11133(a)(11)(A)	Status Offenders and Nonoffenders ¹⁹ From being placed in	a secure detention facility OR secure correctional facility	Unless the juvenile falls under the Interstate Compact Exception or the VCO Exception. Note: There are no exceptions for nonoffenders. Placement is a violation.
Section 223(a)(11)(B)	Accused juvenile offenders charged as adults	A jail or lockup for adults	Unless in the interest of justice consistent with 34 U.S.C. § 11133(a)(11)(B). See also OJJDP's (11)(B) Requirement Checklist.
Sight or Sound Separation 34 U.S.C. § 11133(a)(12)	Delinquent Offenders, Status Offenders, and Nonoffenders From being detained or confined in	ANY Institution (i.e., secure facility) in which they have sight or sound contact with adult inmates	Brief and inadvertent sight or sound contact between juveniles and adult inmates in secure areas of a facility that are not dedicated to juvenile use and are nonresidential, would not constitute "contact." But any contact in a designated juvenile area, including any residential area, is a violation. 28 CFR 31.303(d)
Jail Removal 34 U.S.C. § 11133(a)(13)	Delinquent Offenders Status Offenders Nonoffenders From being detained or confined in	an adult jail or lock up, including a court holding facility	Except accused juvenile offenders not to exceed 6 hours for (1) processing or release; (2) transfer to a juvenile facility; or (3) in which period such juveniles make a court appearance. The three statutory exceptions are not applicable in California. Note: These exceptions do not apply to nonoffenders, status offenders, and adjudicated delinquent offenders. These juveniles cannot be detained or confined for any length of time.

¹⁹ The JJDP defines nonoffender as a juvenile who is not charged with any offense AND is either an alien OR alleged to be dependent, neglected, or abused.

5. Violation Procedures

Date Issued:	January 2019
Last Reviewed:	July 2022
Related OJJDP authority:	28 C.F.R. § 31.303(f)(1)(iii)
Related California authority (if any):	n/a

Policy

The JJDPA requires that states establish procedures for how it receives, investigates, and reports complaints of instances of violations with the JJDPA core requirements.

Procedures

The BSCC detects violations through three main avenues: (1) self-reported violations; (2) violations found on-site during an inspection or verification; and (3) third-party reported violations, such as reports from inmate letters, interviews with juvenile offenders in custody, complaints from families impacted by the juvenile justice system, and from nongovernmental organizations.

A. General Process

The violation procedures are the same for most situations.

1. Staff contacts the agency. If on-site, staff brings the unreported violation to the agency's attention.
2. Staff requests additional information, which at minimum, includes:
 - Type of violation (Specify which core requirement)
 - Date
 - Number of juveniles involved
 - If Jail Removal violation, the length of detention from the log
 - Explanation of why it happened
3. Staff may request additional documentation:
 - The CM Analyst may ask questions remotely.
 - If on-site, the Compliance Monitor may request original documentation or additional records, interview facility staff, or tour the facility.

4. Staff reviews whether an incident is a violation or recording error, or whether there are circumstances that clear or exempt a violation.
5. Staff documents the determination.
 - If it is not a violation, staff should document the reasoning.
 - If it is a new, unreported violation, staff should note the month and year of the violation.
 - Inform the CM Analyst
6. Staff discusses findings and provides technical assistance as needed.
7. The BSCC does not collect or store original or copied documentation from facilities. The BSCC stores its own documents, such as forms and responses, annual surveys, inspection reports, and other information, on site for six years in hard copy or digital form, and then archived off-site for five years.

B. Determination of Violation

The determination of a reported violation depends upon the core requirement. This section will address the determination process for each core requirement.

DSO violations

A. Definition

Nonoffender or status offenders shall not be detained in secure detention facilities or secure correctional facilities.²⁰

B. Exceptions

There are no exceptions to the detention of nonoffenders. For status offenders, the JJDPa provides three exceptions:

1. Youth Handgun Safety Exception

The DSO requirement does not apply to juveniles charged or found to have committed a violation of the Youth Handgun Safety Act or similar state law.

California does not use this exception.

²⁰ 34 U.S.C. § 11133(a)(11)(A).

2. Valid Court Order Exception

Provides that accused or adjudicated status offenders, and juveniles found to have violated a valid court order based on their status as a juvenile, may be placed in a secure juvenile detention or correctional facility. This exception does not apply to a juvenile who has committed a violation of a court order that is not related to his status as a juvenile (i.e., an offense with which an adult may be charged, such as failure to appear) is neither a status offender nor nonoffender and the DSO requirement does not apply.

Since 2014, California law prohibits the detention of status offenders who are found in violation of a court order with very limited exceptions.²¹ As a result, the BSCC has not received or found any VCO exceptions. See the [VCO Exception Checklist](#), which collects the requisite data and includes all the substantive requirements under 28 C.F.R. § 31.303(3).

3. Interstate Compact Exception

Status offenders maybe held in accordance with the Interstate Compact on Juveniles. California participates in the Interstate Compact. The BSCC requires probation departments to report incidents where juveniles are held in accordance with the Interstate Compact. Additionally, departments must submit filings with California's Interstate Commission for Juveniles, which is operated by the California Department of Corrections and Rehabilitations, Division of Juvenile Justice.

C. State Plan

To determine compliance or noncompliance with the DSO requirement, the BSCC does the following:

²¹ Cal. Civ. Pro. Code § 1219(c).

- Collects self-reports from facilities on potential incidents of noncompliance through monthly reports from adult jails or lockups and case-by-case reports from secure juvenile detention or correctional facilities.
 - [Federal Youth Report](#)
 - [Nonoffender and Status Offender Report](#)
 - [Annual Survey](#)
- Conducts follow-up investigations of any self-reported incidents and requests additional information on the status of the juveniles, the underlying reasons for the detention or information on the charges.
- Review documentation, such as the facilities admittance list or records, or intake records.
- If the potential noncompliance occurred in an adult jail or lockup, Compliance Monitors must determine whether the facility is “residential.” If so, then must continue to determine if a violation occurred. Otherwise, if a facility is not “residential,” then the inquiry ends, and the incident is not reported as a DSO violation.
- To determine whether a VCO exception applies, Compliance Monitors must:
 - Review any submitted VCO Exception Checklists.
 - Upon receipt, contact the probation department and request additional information, additional records, and interviews with staff, verifying that all requirements were met as illustrated in the [VCO Exception Checklist](#).
 - If all requirements are not met, then the incident must be reported as a violation.
- To determine if a juvenile charged with a status offense has been detained in accordance with the Interstate Compact for Juveniles, Compliance Monitors must:
 - Review the underlying reason for detention, Date and Time for Entry, Date and Time for Release, and duration for which the out-of-state juvenile was detained.

- Review whether the probation department filed the requisite forms for Interstate Compact and notified the juvenile’s home state
- Review if the juvenile was released to a parent or guardian or home state
- If an out-of-state juvenile was not held in accordance with the Interstate Compact, then a noncompliance or violation occurred and must be recorded and reported in the annual compliance monitoring report.

Section 223(a)(11)(B) Violations

A. Definition

A juvenile who is charged as an adult cannot be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure adult facility.²²

B. Exceptions

A court may determine after a hearing, that it is in the interest of justice to detain a juvenile in an adult jail or lockup for adults provided certain requirements are met. See **Section 223(a)(11)(B) of the JJDPA Checklist**.

C. Special note

California has a complex system on juveniles tried as adults, which are “fitness hearings.”²³ While a court determines whether a juvenile’s case is fit to remain in juvenile court or must be transferred to adult court, the juvenile remains in a juvenile facility. Like the JJDPA, California law incorporates the seven requisite criteria and requires a written court order that recites the basis for its determination. However, there is no state counterpart to the JJDPA’s interval hearings every 30 days or 45 days. Moreover, there is no state maximum of 180 days on the time spent in an adult facility. The lack of statutory mandated interval review hearings may result in noncompliance even if all other Section 223(a)(11)(B) requirements are met if the detention exceeds 30 days.

²² Section 223(a)(11)(B).

²³ Cal. Welf. & Inst. Code § 707.

D. State Plan

California law provides judges with discretion on where to detain accused juvenile charged as an adult, which includes the possibility of being detained in an adult jail or lockup. However, there is a presumption that such a juvenile remains in a juvenile facility. In California, a juvenile charged as an adult has not been detained in an adult facility in over five years. Even so, the BSCC continues to collect data on the issue and will continue to monitor compliance by doing the following:

- Collect and review data from the BSCC's Jail Profile Survey, which is a long-standing data collection tool that collects data on juveniles charged as adults on a monthly basis
- Monitor for compliance during on-site inspections by inspecting whether juveniles are detained or confined in an adult jail or lockup
- Upon detecting that an accused juvenile charged as an adult is so detained, request a written court order.
- Review court order for compliance with the seven requisite criteria
- Apply the **Section 223(a)(11)(B) of the JJDP A Checklist**, verifying that the Section 223(a)(11)(B) requirements have been met.
- Must report as a violation if the requirements are not met.

Sight or Sound Separation Violations

A. Definition

The Sight or Sound Separation requirement states that nonoffenders, status offenders, and accused juvenile delinquent offenders may not be detained or confined in any institution in which they have sight or sound contact with adult inmates.

B. Training and Certification

To comply with the Sight or Sound Separation requirement, states must have in effect a policy that requires individuals who work with both juveniles and adult inmates, including in colocated facilities, to have been trained and certified to work with juveniles. California satisfies this requirement because California law

requires individuals who work with both juveniles and adult inmates to have been trained and certified to work with juveniles.²⁴

C. Exceptions

None.

D. Note on Juveniles charged as adults

California law prohibits sight or sound contact between juveniles and adult inmates.

E. Note on Juveniles who reach age of full criminal responsibility

The age of full criminal responsibility in California is 18 years of age. If an individual reaches the age of 18 after arrest or adjudication, but remains under juvenile court jurisdiction, they are not considered adult inmates and need not be separated until they reach the state's age of extended juvenile jurisdiction. By contrast, an individual under juvenile court jurisdiction, who subsequently commits a separate criminal offense after reaching the age of full criminal responsibility, is considered an adult inmate under the JJDP. This individual must not have sight or sound contact with juveniles.

F. Scared Straight Programs

California does not operate any Scared Straight or other shock incarceration programs.

G. State Plan

California law prohibits sight or sound contact between juveniles and adult inmates with very limited exceptions. Consequently, the BSCC has not received or detected an incident of noncompliance in past years. Compliance Monitors must do the following:

- Review a facility's policies and procedures prior to inspection

²⁴ See Pen. Code § 830 *et seq.*; Gov. Code § 1029 *et seq.*; Welf. & Inst. Code § 207.1(f)(4); Cal. Code Regs., tit. 15, § 131.

- Conduct on-site walkthrough of facilities in the monitoring universe to identify the likelihood of sight or sound contact issues.
- Interview facility staff to assess whether practice is consistent with its policies.
- Review and investigate reports of noncompliance or violations
 - Reports may be self-reported by facilities either to FSO staff or via FSO's online reporting tool, or come from third parties
- For potential violations, Compliance Monitors should document:
 - Date of the incident
 - Number of juveniles and adult inmates involved
 - Where the incident occurred
 - Whether the area was dedicated solely to juveniles
 - What kind of contact was involved?
 - Whether the encounter was brief, accidental, or inadvertent
- Provide technical assistance as needed or upon request

Jail Removal Violations

A. Definition

The Jail Removal requirement states that no juvenile shall be detained or confined in any jail or lockup for adults with exceptions.²⁵ Certain types of juveniles may not be detained or confined for any length of time in adult jail or lockup: juveniles who are not accused of any offense, juveniles accused of status offenses, and adjudicated delinquent offenders. The detention or confinement of these kinds of juveniles results in noncompliance or violations.

B. Exceptions

For accused juvenile delinquent offenders only, the JJDPa provides four statutory exceptions:

1. Six-Hour Exception

²⁵ 34 U.S.C. § 11133(a)(13).

May be detained for no more than 6 hours for the purposes of processing or release or while awaiting transfer to a juvenile facility.

2. Rural Exception

May be detained for as long as 48 hours (excluding Saturdays, Sundays, and legal holidays) while awaiting an initial court appearance when the jail or lockup is outside a metropolitan area and no existing acceptable alternative placement is available. **California does not use the Rural exception.**

3. Travel Conditions Exception

May detain in an adult jail or lockup if the facility is located where conditions of distance to be traveled or the lack of highway, road, or transportation does not allow court appearances (excluding Saturdays, Sundays, and legal holidays) so that a brief delay is excusable (not to exceed an additional 48 hours). **California does not use the Travel Conditions exception.**

4. Conditions of Safety Exception

If an adult jail or lockup is located where conditions of safety exist, such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel, a juvenile may be detained therein and their court appearance may be delayed until 24 hours after time that such conditions allow for reasonably safe travel. **California does not use the Travel Conditions exception.**

C. Training and Certification

The Jail Removal exceptions are available because California law requires individuals who work with both juveniles and adult inmates, including collocated facilities, to have been trained and certified to work with juveniles.

D. Note on Court Holding Facilities

An accused juvenile delinquent offender may be detained in a court holding facility no more than six hours so long as they do not have sight or sound contact

with adult inmates. The time spent in a courtroom or nonsecure area of the courthouse does not count toward the six hour limit.

E. State Plan

The BSCC receives or detects dozens of incidents of noncompliance each year. Compliance Monitors should review records on-site, such as the detention logs, check the Date and Time for Entry against the Date and Time for Exit or Release. If the total time exceeds six hours, the Compliance Monitor may request further additional records for review and interview officers or staff. The incident must be documented in the compliance monitoring report and reported to the Lead Compliance Monitor, who may conduct additional review and follow-up. If no exception applies, the violation will be recorded and reported in the annual compliance monitoring report to OJJDP.

6. Data Collection and Verification

Date Issued:	January 2019
Last Reviewed:	July 2022
Related OJJDP authority:	28 C.F.R. § 31.303(f)(1)(i)(D); § 31.303(f)(5)
Related California authority (if any):	n/a

Policy

The JJDPA requires that states describe its procedures for data collection and data verification. States must collect data from a minimum of 85% of facilities in their monitoring universe.

Procedures

The BSCC has two internal programs to collect and verify data: Minors²⁶ in Detention program (MID) and Status Offenders, Nonoffenders, and Federal Youth program (SOFY). The MID and SOFY programs are essential because of the total area of California and the sheer number of detention facilities and law enforcement facilities in California. There are over 800 facilities in California's compliance monitoring universe, not including nonsecure facilities. One analyst is dedicated to implementing both programs.

The MID and SOFY programs both collect and verify data on the juveniles, but from different kinds of facilities. The MID program collects data from adult jails or lockups whereas the SOFY program collects data from juvenile detention and correctional facilities. The MID and SOFY programs collect and verify data in a similar manner but use different forms and involve different database systems.

A. Adult jails or lockups

Collection

The CM Analyst collects data remotely from adult jails and lockups through annual surveys and monthly reports on the detention of juveniles. The analyst also collects

²⁶ California uses the term "minor" to refer to persons under the age of majority. To minimize confusion among California's 58 counties, the term is on data collection tools.

data from the inspection documented in compliance monitoring reports from Compliance Monitors and Field Representatives.

Verification

The CM Analyst receives data from these sources and reviews them for accuracy and completeness. If needed, the analyst will contact jails or lockups for additional clarification. For example, the analyst will make sure that the reporting agencies provide all the data fields required by the JJDP, such as name, gender, Entry Date and Time, and Release Date and Time, and the like. Sometimes a lock up may detain an accused juvenile offender for more than 6 hours and provide adequate information. The analyst will contact the lockup facility and request additional information. If needed, the analyst may request assistance from the lead Compliance Monitor. In the end, the analyst will update the dedicated adult jails and lockup database of the monitoring universe. Information on court holding facilities is part of this database.

B. Secure Juvenile Detention and Correctional Facilities

Collection

The CM Analyst also collects data remotely from juvenile detention and correctional facilities through the annual survey, VCO Exception Checklist reports if any, and Sight or Sound Separation incident reports if any. The analyst also collects data documented from the annual inspections of collocated facilities.

Verification

The CM Analyst receives data from these sources and reviews them for accuracy and completeness. If needed, the analyst will contact juvenile probation departments for additional clarification. For example, a juvenile detention facility reports that it detained two nonoffenders. The analyst will review the report form and make sure it was completed correctly. The analyst will also contact the probation department about the circumstances around the detention. If needed, the analyst may request guidance from the lead Compliance Monitor. In the end, the analyst will update the dedicated juvenile detention and correctional facility database of the monitoring universe.

C. Note on the Section 223(a)(11)(B) Requirement – Juveniles charged as adults

Collection

The BSCC collects data on juvenile charged as adults via two primary tools:

- The Jail Profile Survey is a long-standing data collection tool that collects data on juveniles charged as adults on a monthly basis.
- BSCC inspection forms require Compliance Monitors to address juveniles in general. FSO is considering amending the state’s inspection form to address the specific issue of juveniles charged as adults.
- The California Office of Attorney General is statutorily charged with collecting, compiling, and reporting data on the administration of juvenile justice from county probation departments. It maintains a Juvenile Court and Probation database that contains information, such as a juvenile’s progress from probation to final disposition, and on juveniles charged as adults. If needed, the BSCC can request data from the Office of Attorney General.

Verification

If an accused juvenile charged as an adult is ordered by the court to be detained or confined in a jail or lockup for adults, the BSCC will contact the originating juvenile probation department and the local county juvenile court for additional information and request the written court order. Compliance Monitors will follow and apply the JJDP Section 223(a)(11)(B) Checklist tool developed by OJJDP, verifying that the Section 223(a)(11)(B) requirements have been met and that the court order considered the seven requisite factors for the basis of its determination.

The lead Compliance Monitor is responsible for final verification of data submitted to OJJDP as detailed in Section 5 of this manual on violation procedures and in Section 7 on annual reporting requirements. All forms used to collect information about juveniles detained or confined in adult jails, adult lockups, juvenile detention facilities, and juvenile correctional facilities are available at: https://www.bscc.ca.gov/s_fsoservices/.

Attachment

Section 223(a)(11)(B) of the JJDP Checklist

Section 223(a)(11)(B) of the JJDPA Checklist



Section 223(a)(11)(B) of the JJDPA Checklist

Please note that use of this form is not required. It is intended to be a tool to assist in determining whether an instance of noncompliance with Section 223(a)(11)(B) of the JJDPA has occurred.

Complete this form for **each instance** occurring on or after December 21, 2021, in which a **juvenile is charged as an adult and detained in an adult jail or lockup** while awaiting trial or other legal process.

Section I

Answer "Yes" or "No" to each of the following questions:

- ① Was the juvenile sight and sound separated from adult inmates? Yes No
- ② Do any of the following exceptions apply? Yes No
- a. The juvenile was detained for a period that did not exceed six hours **for processing or release;**
 - b. The juvenile was detained for a period that did not exceed six hours **while awaiting transfer to a juvenile facility;**
 - c. The juvenile was detained for a period that did not exceed six hours **during which period the juvenile made a court appearance;**
 - d. The juvenile was detained for no more than 48 hours **while awaiting an initial court appearance in a jail or lockup that was outside a metropolitan statistical area** (as defined by the Office of Management and Budget), and the state had no existing acceptable alternative placement available;
 - e. The juvenile was detained in an adult jail or lockup **located where conditions of distance to be traveled or the lack of highway, road, or transportation did not allow for a court appearance within 48 hours** (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay was excusable; or
 - f. The juvenile was detained in an adult jail or lockup **located where conditions of safety existed (such as severely adverse, life-threatening weather conditions that did not allow for reasonably safe travel)** and the court appearance was delayed until no more than 24 hours after the time that such conditions allowed for reasonably safe travel.

If the answers to **both** of the questions in Section I is "yes," there is compliance with section 223(a)(11)(B) of the JJDPA. **Skip to Section III.**

If the answer to either of the questions in Section I is "no," **proceed to Section II.**

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Section II

Answer “Yes” or “No” to each of the following questions:

- ① Was there a court hearing to consider whether it was in the interest of justice to detain the juvenile in an adult jail or lockup or such that he has contact with adult inmates? Yes No
- ② Is there a written court order following the hearing to determine that it is in the interest of justice to detain the juvenile in an adult jail or lockup or such that he has contact with adult inmates? Yes No
- ③ Does the order indicate that the court considered the following factors? Yes No
 - a. The **age** of the juvenile;
 - b. The **physical and mental maturity** of the juvenile;
 - c. The **present mental state** of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
 - d. The **nature and circumstances** of the alleged offense;
 - e. The juvenile’s **history** of prior delinquent acts;
 - f. The relative ability of the available adult and juvenile detention facilities to not only **meet the specific needs** of the juvenile but also to **protect the safety** of the public as well as other detained youth; and
 - g. **Any other** relevant factor.
- ④ Following the initial hearing and court order, was there a court hearing at least every 30 or (in the case of a rural jurisdiction) 45 days, that the individual has been detained in the adult jail or lockup or such that he has sight or sound contact with adult inmates, to review whether it is still in the interest of justice to permit the juvenile to be so detained? Yes No
- ⑤ If the individual has been detained in a jail or lockup for adults, or such that he has sight or sound contact with adult inmates, for more than 180 days, is there a written court order that articulates the court’s finding of good cause for an extension, or documentation of a waiver by the juvenile? Yes No

Proceed to Section III.

Section III

Are the answers to **both questions** in Section I “**yes**”?

Yes ————— **Compliance** with Section 223(a)(11)(B) of the JJDP

If the answer to **one or both** of the questions in Section I is “**no**,” are the answers to **all** of the questions in Section II “**yes**”?

Yes ————— **Compliance** with Section 223(a)(11)(B) of the JJDP

No ————— **Noncompliance** with Section 223(a)(11)(B) of the JJDP

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7. Compliance Monitoring Annual Reporting Requirement

Date Issued:	January 2022
Last Reviewed:	March 2022
Related OJJDP authority:	28 C.F.R. § 31.303(f)(5)
Related California authority (if any):	n/a

Policy

The JJDP Act requires states to submit annual compliance monitoring reports based on data from the previous federal fiscal year, as well as have procedures for the annual submission of compliance data and supporting documentation. This section addresses the procedure by item.

Procedures

The submission of the annual reporting requirements for compliance monitoring involves advance preparation by the CM Analyst under the supervision of the Compliance Officer, as well as the lead Compliance Monitor. Working closely together, the BSCC submits the following each year to OJJDP via the [OJJDP Compliance Monitoring Tool online](#):

A. General Components

1. State compliance data for the core requirements and supporting documentation
2. Requisite certification forms
 - Training Policy Certification
 - Compliance Monitoring Data Certification
 - Compliance Plans and Resources Certification
 - Note: The Rural Removal Exception Certification is not applicable.
3. Plan for Compliance Monitoring
 - States are allowed to submit its Compliance Monitoring Manual
4. Compliance Monitoring Universe

5. Special note on R/ED:

- As previously stated, R/ED is not part of compliance monitoring; however, R/ED materials must be submitted annually via the OJJDP Compliance Monitoring Tool.
- Compliant Monitor should obtain R/ED materials from the R/ED Coordinator in the BSCC's grants division.

B. General Process

The annual Title II Solicitation provides a complete list of materials due. Additional requirements may vary each year.

1. State compliance data for the core requirements

The preparation of the compliance monitoring data is the most time-consuming part of the process. It requires a command of the core requirements, attention to detail, and close collaboration among the lead Compliance Monitor, Compliance Officer, and the CM Analyst.

a. The Monitoring Analyst Must Finalize the Databases

The analyst is responsible for maintaining the adult jail and lockup database and the juvenile detention and correctional database for the monitoring universe throughout the year. Once the Federal Fiscal Year ends on September 30th, the analyst has until January to finalize the databases for that Federal Fiscal Year. That is the analyst has 3 to 4 months to ensure that any still outstanding monthly reports or survey responses are received. If additional support is needed, the analyst must inform the Compliance Officer.

b. The Compliance Officer Reviews the Databases

The Compliance Officer must review the respective bases to ensure their accuracy and completeness.

c. The Compliance Monitor Analyzes the Databases

A Step by Step guide for analyzing the databases is available to the Compliance Monitor. However, it is so too complex and lengthy to be included in this guide. To summarize, the Compliance Monitor reviews each reported or detected violation separately by reading monthly reports, incidents reports, and inspection reports. For each incident, the Compliance Monitor will contact the respective agencies for additional information. If needed, the Compliance Monitor may schedule additional meetings with the agencies involved. After considering all the available information, the Compliance Monitor will determine whether it is a violation as stated in Section 5 of this manual. In the end, the Compliance Monitor will produce a summary of JJDP violations that will be reported.

d. The Standards and Compliance Officer Performs an Independent Analysis

Following the same step-by-step guide, the Compliance Officer will perform an independent analysis and share their results with the Compliance Monitor.

e. The Compliance Monitor Performs a Reconciliation

The Compliance Monitor will compare results. If needed, the Compliance Monitor will review any discrepancies and reconcile them. The Compliance Monitor finalizes the monitoring data and submits it online to OJJDP. The Compliance Monitor must download a PDF copy of the submitted data for Executive Management Review, as well as upload the PDF as an attachment to OJJDP.

2. Requisite certification forms

OJJDP requires the submission of certain certification forms each year. The Executive Director (ED) is the appropriate person to sign the certification forms. The lead Compliance Monitor should prefill the forms for signature and submit them to the Board Secretary in advance. The Compliance Monitor must attach finalized copies of the data and the manual for the ED's review. The ED will contact the Compliance Monitor if there are any questions. The Board Secretary will obtain the signatures and return the original, signed certifications to the Compliance Monitor.

3. Plan for Compliance Monitoring

In lieu of a plan, the BSCC submits a copy of the Compliance Monitoring Manual. The lead Compliance Monitor is responsible for reviewing and revising the manual each year. Prior to submission, the Compliance Monitor should create internal deadlines to provide Executive Management or Counsel adequate time to review and provide feedback on the manual. While the Compliance Monitor revises the manual, it is expected that the Compliance Officer review, provide input, or propose specific revisions as needed.

4. Compliance Monitoring Universe

The Compliance Monitoring Universe is a list of all the secure facilities in the universe by federal classification. The CM Analyst is responsible for producing the monitoring universe. The Compliance Officer is responsible for reviewing the universe, providing feedback or direction to analyst, and ensuring the universe is accurate, complete, and updated.

C. Good Cause Extension

OJJDP recognizes that states may have good cause for more time to complete the annual reporting requirements. In these situations, OJJDP allows states and territories with good cause to submit a request for a 30 day extension for compliance data and R.E.D. data submission. The extension is not available for other Title II requirements. If BSCC has good cause and would benefit from an extension, the Compliance Monitor must first discuss such a request with the FSO Deputy Director. If Executive Management approves of submitting a request, the lead Compliance Monitor must:

- Write on official BSCC letterhead
- Address to the OJJDP Administrator
- Provide justification as to why an extension is needed
- Submit via email to the designated SRAD Program Manager

Hard copies and e-copies of the request and email should be stored appropriately.