



OREGON COMPLIANCE PLAN

In the matter of the Juvenile Justice and
Delinquency Prevention Act (JJDPa) of
2018 as Amended



**Youth
Development
Division**

FY20-22

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1.0 INTRODUCTION

1.1 Summary of Requirement

Pursuant to 28 C.F.R. § 31.303(f) (1) (i), states must describe their compliance monitoring policies and procedures. OJJDP recommends that the Designated State Agency (DSA) make the procedures available on its Agency Website.

1.2 Program Introduction

Oregon is a participant in Juvenile Justice and Delinquency Prevention Act (JJDP), as amended by the 2018 Juvenile Justice Reauthorization Act (JJRA). The aim of the JJRA is to help improve state juvenile justice systems while extending additional protections to juveniles in an effort to prevent them from becoming justice-involved. Described within sections 2.0 – 8.0 of this manual are the implementation of key monitoring system elements as evidence that Oregon has met and maintains a “written plan” for compliance. This plan is intended only to address the three core requirements for which facilities must certify compliance with annually:

- Section 223 (a) (11) Deinstitutionalization of status offenders (DSO)
- Section 223 (a) (12) Separation of juveniles from adult inmates (SS)
- Section 223 (a) (13) Removal of juveniles from adult jails and lockups (JR); and

Compliance with Racial and Ethnic Disparity (RE/D) requirements is described in a separate, comprehensive state plan. Oregon is striving to synthesize this work and view it through a racial and ethnic disparities lens.

Since its passage in 1974, the JJDP has changed the way states and communities deal with troubled youth. The original goals of the JJDP and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) were simple: to help state and local governments prevent and control juvenile delinquency and to improve the juvenile justice system. The reauthorization of the JJDP in 2002 reaffirmed these goals. A second important element in the 1974 JJDP was to protect juveniles in the juvenile justice system, including those detained in adult facilities, from inappropriate placements and from the harm—both physical and psychological—that can occur as a result of exposure to adult inmates.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is nationally responsible for the development and promulgation of regulations, guidelines, requirements, criteria and procedures in accordance with the policies, priorities and objectives of the JJDP Act. While the Youth Development Division (YDD), serving as Oregon’s Designated State Agency (DSA), is responsible administering federal funds received from OJJDP, provide staff support to the State’s Youth Development Council (YDC), and monitor facilities for their ability to implicate the rights of juveniles under lawful custody. The YDC,

serving as Oregon's State Advisory Group (SAG) participates in the development of the state's juvenile justice plan, reviews and advises on grant applications, and actively consults with local units of government in developing the state plan to address their needs.

Finally, this manual serves as Oregon's state plan for complying with the 2018 JJDP Act between FY20-23 (October 1, 2019 – September 30, 2022). Pursuant to Section 223(a)(14), this plan is required in order to provide for an effective system of monitoring jails, lockups, detention, correctional and non-secure facilities to ensure the core requirements of the JJDP Act are afforded to juveniles. Oregon will adjust its plan based on emerging needs in Oregon for the FY23-25 planning period. For more information, or to contact our office, please visit the Youth Development Division's [web page](#) for facility monitoring.

1.3 Private Right of Action

Participation in the JJDP Act creates an enforceable private right of action that delegates duties to states when accepting the federal funds. When those duties are breached a juvenile may seek a remedy pursuant to 42 U.S.C.A. Section 1983. [Hendrickson v. Griggs, 672 F. Supp. 1126](#) (N.D. 1987); [Horn by Parks v Madison County Fiscal Court 22 F. 3d. 653](#) (6th Circuit 1994). Noncompliance with the JJDP Act could also open the door to section 1983 conditions of confinement litigation, raising damage claims under the 8th Amendment Cruel and Unusual Punishment Clause and the 14th Amendment due process clause. [In D.B. v Tewksbury, 545 F. Supp.](#) (D. Or. 1982) the court found the practice of jailing juveniles to be a per se constitutional violation of the 14th Amendment.

2.0 MONITORING AUTHORITY

Effective Date: 3/18/2021	Supersedes: 1/1/2020
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP A)
Policy #: OPPM 2.1-2	Subject: Monitoring Authority
Federal References/Laws: 34 U.S.C. § 11133(a)(1) and (2)	State References/Laws: ORS 417.847 ; OAR 423-155-0001 ; OAR 423-155-0010 ; OAR 423-155-0025

2.1 Summary of Requirement

States are required under 34 U.S.C. § 11133(a) (1) and (2) to designate an agency (referred to as the Designated State Agency, or the DSA) and to provide satisfactory evidence that the DSA has authority, by legislation, if necessary, to administer the Title II Formula Grants Program, including monitoring for compliance with the DSO, separation, and jail removal requirements. Monitoring for compliance with the above requirements inherently involves monitoring facilities in the state in which a juvenile may be detained or confined pursuant to a law enforcement or juvenile court authority. Consequently, the DSA needs to have authority to monitor all such facilities in order to fulfill this responsibility. The DSA's authority should be sufficiently broad to permit the monitoring agency to inspect and collect data from all facilities in the monitoring universe. The basic authority should permit the DSA, or agency with the responsibility or legal authority, to inspect and review records for all secure and nonsecure facilities that might detain or confine juveniles pursuant to law enforcement or juvenile court authority and to monitor for compliance with the DSO, separation, and jail removal requirements of the JJDP A.

2.2 Authority to Monitor Facilities

For decades, Oregon has used an executive form of monitoring authority issued by the State's elected Governors. While this type of authority was sufficient at the time for broadly demonstrating the State's ability to monitor facilities, it did little to inform the facilities themselves of the DSA's intended goals. As a result [ORS 417.847](#) was amended during the 2019 Legislative session, granting the Youth Development Council the authority to adopt rules drafted by the Youth Development Division.

Consequently, in 2021 the YDC voted to adopt the following Oregon Administrative Rules (OAR), created for the purpose of satisfying 34 U.S.C. § 11133(a)(1) and (2), as well as achieving and maintaining compliance with the 2018 JJRA through an effective system of monitoring - 34 U.S.C. § 11133(a)(14):

- [423-155-0001](#) – “Definitions”;
- [423-155-0010](#) – “Maintaining Compliance with Custody and Facility Provisions”; and
- [423-155-0025](#) – “Technical Assistance Process for Institutions out of Compliance.”

These rules further ground Oregon’s process for compliance monitoring, which facilities can now reference in preparation for demonstrating compliance to the State. YDD staff are in the process of developing two guidance manuals for the purpose of aiding local facility compliance: One for jails and lockups for adults and one for secure detention and correctional facilities for juveniles. These will be made available to law enforcement, facility, and court personnel operating facilities, which if secured, would constitute one of the above. These manuals will contain visually illustrated graphs supplied by OJJDP and CCAS, in addition to guidance around the uses of exceptions, and facility-specific custody logs for documenting juveniles who become “detained, confined,” or “placed.” Oregon may need to seek clarity from OJJDP pertaining to specific provisions of the 2018 JJDP Act before the manuals can be released.

3.0 VIOLATION PROCEDURES

Effective Date: 1/1/2020	Supersedes: 5/18/18
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP A)
Policy #: OPPM 3.1-2	Subject: Violation Procedures
Federal References/Laws: 28 C.F.R. 31.304 ; 28 C.F.R. 31.303 (f)(1)(iii) ; 34 U.S.C. § 11133 Section 223 (11) - (14) ; 34 U.S.C. § 11103 ; 28 C.F.R. 31.304	State References/Laws: OAR 423-155-0025 as it relates to ORS 417.847

3.1 Summary of Requirement

Under 28 C.F.R. § 31.303(f)(iii), a state’s monitoring system must include any procedures to receive, investigate, and report complaints of noncompliance with the DSO, separation, and jail removal core requirements. This should include any existing legislative and administrative procedures and sanctions.

3.2 Procedure for Addressing Complaints of Non-Compliance

- (1) In accordance with the rules set forth in 28 C.F.R. § 31.303(f)(1)(iii), including definitions provided in 34 U.S.C. § 11103, and 28 C.F.R. § 31.304, violation procedures will be conducted whenever juvenile data is collected from facilities or reviewed on-site;
- (2) If data annotated by the state’s compliance monitor, or submitted by a facility, indicates a violation may have occurred, the compliance authority shall collect a redacted incident report written by the administering official, as well as any other documentation that is relevant to the case for the purpose of initiating a technical assistance process pursuant to [OAR 423-155-0025](#) – “Technical Assistance Process for Institutions out of Compliance”;
- (3) If a potential violation that is reported by facilities, or annotated during an on-site review is deemed a false-positive, then;
 - a. Additional evidence must be gathered certifying as much; and
 - b. The compliance monitor must provide staff with corrective training on the proper handling and documenting of juveniles in custody;
- (4) If a compliance determination has been made that a violation did occur, a plan for compliance will be written by the state’s compliance monitor addressing the following;

- a. The type of violation in accordance with 34 U.S.C. § 11133 Section 223(a)(11),(12), or (13),
 - b. The nature of the violation;
 - c. The identifying cause of the violation; and
 - d. A corrective plan of action to address and prevent future violations from occurring.
- (5) Once verified, the redacted violation information will be documented and retained for a period of no less than three years, but no more than five from the time the incident occurred. This information will be considered when verifying compliance during on-site inspections and semi-annual collection periods.
- (6) Facilities, which have repeated occurrences of like violations within a three-year period, maybe deemed “out-of-compliance” with 34 U.S.C. § 11133 and could influence other accrediting standards, which also require compliance with federal law.

4.0 STATE/FEDERAL DEFINITIONS OF TERMS

Effective Date: 10/1/2020	Supersedes: 11/1/2019
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP A)
Policy #: OPPM 4.1-2	Subject: Definition of Terms
Federal References/Laws: 34 U.S.C. § 11103 ; 28 C.F.R. § 31.304	State References/Laws: ORS: 419C.130(3) ; 162.135(4) ; 419C.091(1) ; 166.360(2) ; 166.360(7) ; 169.005(3) ; 169.005(4) ; 169.005(5) ; 169.005(8) ; 419A.004(17) ; 419A.004(28) ; 419A.004(29) ; 419A.004(36) ; 419A.004(40) ; 419B.005(2) ; 419B.150-175 ; 420.005(4) ; 420.005(5) ; 420.855(2) ; 420.855(4) ; 421.005(2) ; ORS 426.005(1)(e)

4.1 Summary of Requirements

Definitions that states use for key juvenile and criminal justice terms may differ from those provided in the JJDP A at 34 U.S.C. § 11103 and those found in the Formula Grants Program Regulation at 28 C.F.R. § 31.304. In order to demonstrate compliance with the Formula Grants Program requirements under the JJDP A, states must apply the definitions in the JJDP A and the Formula Grants Program Regulation – and clearly indicate they are using the federal definitions.

4.2 Definition and Terms

The Oregon Legislative Assembly declares that in delinquency cases, the purposes of the Oregon juvenile justice system from apprehension forward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior. The system shall be open and accountable to the people of Oregon

and their elected representatives – [419C.001\(1\)](#) “Purpose of the juvenile justice system in delinquency cases.”

Below each term defined in the JJDPa is compared against similar terms defined under Oregon Revised Statute (ORS). Federal terms that do not have a similar term defined locally are given a definition within Oregon’s Administrative Rules (OAR) that govern our authority to inspect and collect data from any facility in which juveniles may be detained. While both state and federal terms are provided here, the designated state agency will use federal terms when carrying out compliance related efforts.

<u>Primary Federal Terms and Definitions</u>	<u>Related State Terms and Definitions</u>
Adult Inmate as defined under 34 U.S. Code § 11103 (26) – “means (A) an individual who— (i) has reached the age of full criminal responsibility under applicable State law; and (ii) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense; and (B) does not include an individual who— (i) 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 (ii) 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.”	Adult as defined under ORS 144.600(a) – “means a person who is 18 years of age or older or a person under 18 years of age who is legally classified, either by statute or court order, as an adult.” Pursuant to ORS 419C.130 (3) – “the term ‘adult’ does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005 (jurisdiction).”
Adult Jail or Lockup as defined under 34 U.S. Code § 11103 (22) – “means a secure facility that is used by a State, unit of local government, or law enforcement authority to detain or confine adult inmates.”	Lockup as defined under ORS 169.005 (5) – “means a facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.” Local Correctional Facility as defined under ORS 169.005 (4) – “means a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds persons for more than 36 hours.”

	The following also constitutes an Adult Lockup when secured by the installment of Construction Features or an Adult Jail if also residential: Court Facility as defined under ORS 166.360(2) – “means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place,” but only if secured by the presence of Construction Features. Temporary Holding Facility as defined under ORS 169.005 (8) – “means a facility, the principal purpose of which is the temporary detention of a prisoner for four or less hours while awaiting court appearance or transportation to a local correctional facility.”
Collocated Facility as defined under 34 U.S. Code § 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; (29) the term “related complex of buildings” means 2 or more buildings that share— (A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or (B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.”	Oregon does not define collocated facilities under state law. Regardless, Oregon uses federal definitions when monitoring.
Community-Based Facility, Program, or Service as defined under 34 U.S. Code § 11103 (1) – “means a small, open group home or other suitable place located near the juvenile’s home or family and programs of community supervision and service which maintain community and	Oregon has a wide variety of community-based facilities, programs, and services that vary from county to county. However, there are no state terms that are defined as broadly as the federal term provided here.

consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.	
Contact as defined under 28 C.F.R. § 31.303(d)(1)(i) – “means the degree of interaction allowed between juvenile offenders in secure custody and incarcerated adults. As per the aforementioned, the term contact is defined to include any physical or sustained sight and sound contact between juveniles in secure custody and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders (December 10, 1996).”	Contact is not defined under Oregon State law. Instead, all standards relating to this effort are defined in the JJDP Act and enforced through monitoring. Generally, separation is maintained by a statutory prohibition against detaining juveniles in facilities for adults (see ORS 419C.130 – “Youth or Youth Offender may not be detained where adults are detained).” There are few exceptions and those exceptions mostly align with the requirements of 34 USC 11133 Section 223(a)(13) – “Removal of Juveniles from Adult Jails and Lockups.” Individuals over the age of the state’s majority are placed in facilities for juveniles if they qualify for extended juvenile court jurisdiction. However, the local statute above does allow for persons under 18 to be detained in a facility for adults, if the youth was waived under ORS 419C.349 – “Grounds for waiving youth to adult court.” This requires two things: “A....The youth is at least 16 years of age; and B. The director of the county juvenile department, sheriff, or other official responsible for the jail or other place, agree to detain the youth in the jail or other place where adults are detained.” This is important for complying with the “interest of justice” requirement when it becomes effective December 21, 2021. While the default placement for youth waived to adult court is a facility for juveniles pending the outcome of their trial, Oregon’s compliance

	monitor will work with local sheriff's, juvenile department directors, and other officials to ensure that separation is maintained anytime a juvenile is transferred into the custody of an adult facility, unless the "interest of justice" requirement has been met.
Detain or Confine as defined under 28 C.F.R. § 31.304 (q) – "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."	Detain or Confine as defined under OAR 423-155-0001(11) – "means to hold, keep, or restrain a person such that he or she is not free to leave. There are two exceptional circumstances where lawful custody would not constitute the juvenile being detained or confined, provided only that the juvenile is not held using Construction Features: (a) A juvenile that law enforcement holds for their own benefit for the sole purpose of returning the juvenile to custody of a parent or guardian; or (b) A juvenile that law enforcement holds for their own benefit pending the transfer of the juvenile to the custody of a child welfare or social service agency." This definition was created in Oregon Administrative Rules (OAR) because it is the litmus for determining <i>when</i> a juvenile's rights have been implicated under the federal law and the Designated State Agency (DSA) could not identify a similar definition under State law.
Facility as defined under 28 C.F.R. § 31.304 (c) – "means place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies."	Facility as defined under OAR 423-155-0001(13) – "means an Institution, a place, a building or a part thereof, a 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 or operated by public or private agencies." This definition was created in Oregon Administrative Rules (OAR) because it represents the starting point for a building or enclosure to become monitored as a facility for the purpose of

	complying with the JJDP Act. From here, the state may evaluate a facility to determine if it is an Institution, Jail, Lockup, Secure Detention, or Correctional facility for either juveniles or adults.
Institution as defined by OJJDP – “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.”	Institution as defined under OAR 423-155-0001(16) – “means a Facility equipped with one or more Construction Features that a law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or other individuals accused of having committed a delinquent or criminal offense, awaiting adjudication or trial for a delinquent or criminal offense, or found to have committed a delinquent or criminal offense.”
Juvenile offender as defined under 28 C.F.R. § 31.304 (f) – “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	Youth as defined under ORS 419A.004 (40) in the matter of establishing when the juvenile court may have jurisdiction – “means a person under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.” Youth Offender as defined under ORS 419A.004 (42) in the matter of establishing the upper limit of the juvenile court’s jurisdiction – “means a person who is found to be in the jurisdiction of the juvenile court under ORS 419C.005 (delinquency) for an act committed when the person was under 18 years of age but is still within the State’s maximum age of extended juvenile court jurisdiction (24).”
Lawful Custody as defined under 28 C.F.R. § 31.304 (j) – “means the exercise of care, supervision, and control over a juvenile offender or non-offender pursuant to the provisions of the law or a judicial order or decree.”	Custody as defined under ORS 162.135 (4) – “means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, youth correction facility or a state hospital.”

	Protective Custody as defined under ORS 419B.150-175 states that – “a child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services (DHS) or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances: (a) When the child’s condition or surroundings reasonably appear to be such as to jeopardize the child’s welfare; (b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 (Required and discretionary summons) or otherwise, has ordered that the child be taken into protective custody; or (c) When it reasonably appears that the child has run away from home.” Additionally, pursuant to ORS 419C.091 (1) – “Custody under ORS 419C.080 (Custody) and 419C.088 (Custody by private person) shall not be deemed an arrest so far as the youth is concerned. All peace officers shall keep a record of youths taken into custody and shall promptly notify the juvenile court or counselor of all youths taken into custody.”
Maximum age of extended juvenile court jurisdiction as defined under 34 USC 11103 – “means the age above which a juvenile court may no longer exercise jurisdiction under state law.”	Maximum age of extended juvenile court jurisdiction by itself is not defined under Oregon state law. Instead, individuals who qualify for such an extension are referred to as “Youth Offenders” under ORS 419A.004 (40).
Nonoffender as defined under 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.”	Ward as defined under ORS 419A.004 (38) in the matter of establishing dependence – “means a person within the jurisdiction of the juvenile court under ORS 419B.100 (dependency).” Child as defined under ORS 419B.005 (2) in the matter of establishing a non-emancipated minor – “means an unmarried person who is under 18 years of age; or Is under 21 years of age and residing in or receiving care or services at a child-

	caring agency as that term is defined in ORS 418.205 (Definitions for ORS 418.205 to 418.327, 418.470, 418.475, 418.950 to 418.970 and 418.992 to 418.998).
Residential as defined by OJJDP – “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.”	Residential by itself is not defined under Oregon State law as a feature of a facility but rather a type of community-based facility. As a result, Oregon monitors using OJJDP’s definition provided.
Secure as defined under 28 C.F.R. § 31.304 (b) and used to define a detention or correctional facility – “includes residential facilities that include construction features 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.”	Constrution Feature as defined under OAR 423-155-0001(5) – “means a feature designed to physically restrict the movements and activities of persons in custody as listed below: (a) Holding Cell – means a secured room with reinforced materials designed to limit the movements of individuals detained or confined in lawful custody. A holding cell does not include rooms which have had their locking feature reversed to prevent unauthorized entry, and repurposed for non-custodial use; (b) Locking Interview Room – means a room equipped with locking features designed to limit movements of individuals in lawful custody and may sometimes include visual, or audio recording devices. A lockable interview room does not include rooms which sole locking feature is designed to prevent unauthorized entry (witness tamper locks), or rooms secured only by a crash-style bar that temporarily delays egress (must be approved by a fire marshal); (c) Secured Perimeter – means a locked enclosure designed to prevent unauthorized egress by individuals detained or confined in lawful custody such as an intake, booking, or secured residential area; (d) Stationary Cuffing Apparatus – means a ring, bar or bench that are securely mounted to a Facility floor or wall for the purpose of physically restricting the movements of someone in lawful

	custody. A stationary cuffing apparatus does not include the use of personal handcuffs unless fixed to a stationary object.
Secure Correctional Facility as defined under 34 U.S. Code § 11103 (13) – “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 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.”	Youth Correctional Facility as defined under ORS 420.005 (4) – “means a facility used for the confinement of youth offenders and other persons placed in the legal or physical custody of the youth authority and includes secure regional youth facilities, regional accountability camps, residential academies and satellites, camps and branches of those facilities.”
Secure Detention Facility as defined under 34 U.S. Code § 11103 (12) – “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.”	Juvenile Detention Facility as defined under ORS 169.005 (3) – “means a facility established under ORS 419A.010 (Appointment of counselors and director) to 419A.020 (County responsibility for expenses of juvenile department) and 419A.050 (Authority to acquire, equip and maintain detention and shelter facilities) to 419A.063 (Requirements for detention facilities) for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order.” Short-Term Detention Facility as defined under ORS 419A.004 (29) – “means a facility established under ORS 419A.050 (Authority to acquire, equip and maintain detention and shelter facilities) (3) for holding children, youths and youth offenders pending further placement.” While not described under conditional transfers provided in section 6.0 0 – “Classification of Facilities,” the following would constitute a Secure Detention Facility if used for the placement of juveniles transferred, certified or waived to

	adult court after December 21, 2021 (see ORS 419C.130): Lockup as defined under ORS 169.005 (5) – “means a facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.” Local Correctional Facility as defined under ORS 169.005 (4) – “means a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds persons for more than 36 hours.”
Status Offender as defined under 28 C.F.R. § 31.304 (h) – “means a juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.	Status Offenders are not defined under Oregon State law except for those which must be defined for the purpose of placement in a facility for juveniles by federal exception. Example: “Juvenile,” as defined under ORS 417.030(h) and used for the sole purpose of returning them to their home state under the Interstate Compact for Juveniles (ICJ) exception. Otherwise, what OJJDP would consider to be a “status offender” in Oregon is often referred to as a “child,” “ward,” or “youth” if established under juvenile court jurisdiction for dependency related matters.
Valid Court Order as defined under 28 C.F.R. § 31.304 (o) – “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.”	Power of court to enforce orders by contempt order as defined under ORS 419A.180, describes that – “in case of failure to comply with any order of the juvenile court, the court may proceed for contempt of court against the person failing to comply. Failure to obey a subpoena as defined under ORS 419B.911, describes that – “disobedience to a subpoena or a refusal to be sworn or answer as a witness is punishable as contempt by the court

	before whom the action is pending or by the judge or justice issuing the subpoena.” Both of these definitions would be applicable for monitoring under the Valid Court Order (VCO) exception if used to detain or confine status offenders. However, Oregon ceased using the VCO exception at the start of the Juvenile Justice Reauthorization Act’s (JJRA) effective date: October 1, 2019.
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Oregon has other definitions which can be found in its OAR’s but are otherwise currently undefined in the JJDP Act. Examples include: Data; Collection; Compliance Plan; Core Violation; Decision Point; Declaration Report; Detention Report; Floor Plan; Inspection; Spot-Check; and Survey. Oregon’s compliance monitor will continue to analyze definitions and terms used by the state in an effort to identify any conflicting language which could result in violations.

5.0 IDENTIFICATION OF THE MONITORING UNIVERSE

Effective Date: 11/1/19	Supersedes Date: 1/1/16
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP A)
Policy #: OPPM 5.1-3	Subject: Identification of the Monitoring Universe
Federal References/Laws: 28 C.F.R. § 31.303(f) (1) (i) (A) and (C) ; 34 U.S.C. § 11103 ; 28 C.F.R. § 31.304 .	State References/Laws: ORS: 166.360(2) ; 166.360(7) ; 169.005(3) ; 169.005(4) ; 169.005(5) ; 169.005(8) ; 419A.004(10) ; 419A.004(13) ; 419A.004(17) ; 419A.004(30) ; 419A.004(31) ; 420.855(4) ; 421.005(2) ;

5.1 Summary of Requirement

Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(A), states must ensure that they identify and include as part of the monitoring universe all state and local facilities that might detain or confine individuals pursuant to a law enforcement or juvenile court authority, including jails, lockups, secure detention facilities, secure correctional facilities, adult prisons, court holding facilities, and nonsecure facilities. Nonsecure facilities may include law enforcement administrative offices or community-based facilities, such as group homes, shelters, or other residential facilities. Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), states must periodically inspect these nonsecure facilities to determine whether their physical characteristics have changed (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals), such that those facilities are now secure and required to report compliance data.

5.2 Procedure for Identifying Facilities

- (1) In accordance with the administrative rules set forth in 28 C.F.R. § 31.303(f)(1)(i)(A) and (C), including definitions provided in 34 U.S.C. § 11103 and 28 C.F.R. § 31.304, the compliance monitor shall;
 - (a) No sooner than January; but
 - (b) No later than the end of March of the recent calendar year;
 - i. Attempt to identify additional public and private facilities within the state which;
 1. Hold adults; and

2. Might hold juveniles pursuant to law enforcement or judicial authority;
 - ii. Through the following administrative agencies having oversight into the functions and operations of locally defined facilities;
 1. Oregon State Police (OSP);
 2. Oregon Association of Chiefs of Police (OACP);
 3. Oregon State Sheriff's Association (OSSA);
 4. Oregon Youth Authority (OYA);
 5. Oregon Department of Human Services (ODHS);
 6. Oregon Judicial Department (OJD);
 7. Oregon Juvenile Department Directors Association (OJDDA);
 8. Oregon Department of Corrections (ODOC);
 - iii. For the purpose of –
 1. Identifying previously un-established facilities;
 2. Classifying any newly identified facilities; and
 3. Removing any inactive facilities from the monitoring universe;
- (2) Facilities identified for removal from the monitoring universe due to a close status, shall be simply deactivated from within the compliance-monitoring database.
- (3) Records collected will be reflected in the monitoring universe for reporting activities by February 20 of the following reporting period.

5.3 Summary of Facilities Identified by Statute

Provided here is a summary of those facilities in Oregon which have been identified according to their local authorizing statute. These facilities are then rolled into federal categories provided in section 6.0 and divided by jurisdiction, including whether they are secure or nonsecure in custodial nature:

<u>LOCAL CLASSIFICATIONS</u>	<u>AUTHORIZING STATUTES</u>	<u>COUNT</u>
(a) Local Court Facility	166.360(7)	37
(b) Department of Corrections Facility	ORS 421.005 (2)	14
(c) Juvenile Detention Facility	ORS 169.005 (3)	12
(d) Local Correctional Facility	ORS 169.005 (4)	37
(e) Lockup	ORS 169.005 (5)	1
(f) Shelter Care Facility	ORS 419A.004 (28)	3
(g) Short-Term Detention Facility	ORS 419A.004 (29)	1
(h) Temporary Holding Facility	ORS 169.005 (8)	217
(i) Youth Correctional Facility	ORS 420.005 (4)	8

6.0 CLASSIFICATION OF THE MONITORING UNIVERSE

Effective Date: 10/1/2020	Supersedes: 11/1/2019
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP A)
Policy #: OPPM 6.1-3	Subject: Classification of the Monitoring Universe
Federal References/Laws: 28 C.F.R. § 31.303(f)(1)(i)(B) ; 34 U.S.C. § 11103 ; 28 C.F.R. § 31.304	State References/Laws: ORS: 166.360(2) ; 166.360(7) ; 169.005(3) ; 169.005(4) ; 169.005(5) ; 169.005(8) ; 419A.004(10) ; 419A.004(13) ; 419A.004(17) ; 419A.004(30) ; 419A.004(31) ; 420.855(4) ; 421.005(2) ;

6.1 Summary of Requirements

States are required under 28 C.F.R. § 31.303(f)(1)(i)(B) to classify all facilities in the monitoring universe to determine facility type, as listed below. This information is critical to determining the applicability of the DSO, separation, and jail removal requirements in each facility. In addition, classification determines whether each facility is secure or nonsecure, residential or nonresidential and whether the population is juveniles-only, adults-only, or juveniles and adults (note that some of these categories may overlap: e.g., all or part of a jail or lockup may also meet the definition of a secure detention or correctional facility):

- Jail or lockup for adults
- Secure detention facility (adult)
- Secure detention facility (juvenile)
- Secure correctional facility (adult)
- Secure correctional facility (juvenile)
- Other secure facilities
- Nonsecure facilities

6.2 Procedure for Classifying Facilities

- (1) In accordance with the rules set forth in 28 C.F.R. § 31.303(f)(1)(i)(B), including definitions provided in 34 U.S.C. § 11103 and 28 C.F.R. § 31.304, institutions identified annually in section 5.0 – “Identification,” of this manual will be classified by:

- (a) Type (detention, lockup, institution, etc.)
- (b) Sector (public, private, sovereign)
- (c) Jurisdiction (campus, city, county, state or tribal)
- (d) Population (juveniles, adults, both)
- (e) Residential Capacity; and
- (f) How the facility is secured in its function if through the use of:
 - i. Hard cells;
 - ii. Lockable interview/holding rooms;
 - iii. Stationary cuffing apparatuses (e.g. bolts, rings, bars, or chairs);
 - iv. Secured perimeters restricting unauthorized egress without a key or card (e.g. intake or booking).

CONDITIONAL TRANSFERS – Conditional transfers are local facility defining statutes that closely match federal facility defining terms provided in 34 U.S.C. § 11103 or 28 C.F.R. § 31.304 but require certain conditions be met prior to roll up under certain federal classifications.

- (2) “Temporary holding facilities” identified pursuant to 169.005(8) will be conditionally classified as “Facilities” in accordance with 28 C.F.R. § 31.304 (c); or, an “Adult Lockup,” in accordance with 28 C.F.R. § 31.304(n) or 34 U.S.C. § 11103(22) if:
 - (a) Any portion of the facility identified for temporary custody is equipped with any of the physical features identified in subsection (1)(f) i-iv; and
 - (b) The population served or supervised by the administrative office includes adult inmates as defined under 34 U.S.C. § 11103(26).
- (3) “Court facilities” identified pursuant to 166.360(7), and 166.360(2) will be conditionally classified as “Facilities” in accordance with 28 C.F.R. § 31.304 (c), unless secured by the installment of features identified in subsection (1)(f) i-iv, in which case such facilities would be re-classified to an “Adult Lockup,” under 34 U.S.C. § 11103 or 28 C.F.R. § 31.304.
- (4) “Youth care centers” identified pursuant to ORS 420.855 (4) will be classified as “Facilities” in accordance with 28 C.F.R. § 31.304 (c) unless secured by the presence of physical custodial features identified in subsection (1) (f) i-iv, in which case such facility would be re-classified to a “Secure Detention Facility,” or “Secure Correctional Facility,” in accordance with 34 U.S.C. § 11103 (12) and (13) respectively.
- (5) “Facilities,” and “Nonhospital facilities,” identified pursuant to ORS 426.005(1) (e) and (c) respectively will be automatically classified as “Facilities” in accordance with 28 C.F.R. § 31.304 (c); or “Other secure facilities,” in accordance with 34 U.S.C. § 11103 or 28 C.F.R. § 31.304, *if* equipped with any of the physical features identified in subsection (1)(f) i-iv.

AUTOMATIC TRANSFERS – Automatic transfers are local facility defining statutes that closely match federal facility defining terms provided in 34 U.S.C. § 11103 or 28 C.F.R. § 31.304 that do not require significant assessment prior to roll up into federal classification.

- (6) “Lockups,” identified pursuant to ORS 169.005(5) will be automatically classified as “Adult lockups” in accordance with 28 C.F.R. § 31.304(n) or 34 U.S.C. § 11103(22).
- (7) “Juvenile detention facilities” identified pursuant to 419A.004 (13), and ORS 419A.004 (29) will be automatically classified as “Secure detention facilities” in accordance with 34 U.S.C. § 11103(12).

- (8) "Youth correctional facilities" identified pursuant to 420.005(4) will be automatically classified as "Secure correctional facilities" in accordance with 34 U.S.C. § 11103(13).
- (9) "Local correctional facilities" identified pursuant to 169.005(4) will be automatically classified as "Adult jails" in accordance with 28 C.F.R. § 31.304(m) or 34 U.S.C. § 11103(22).
- (10) "Department of Corrections facilities" identified pursuant to ORS 421.005(2) will be automatically classified as "Institutions" in accordance with 34 U.S.C. § 11103 or 28 C.F.R. § 31.304.
- (11) Records will be reflected in the monitoring database for reporting activities by February 20 of the following reporting period.

6.3 Summary of Facilities Federally Classified

Provided here is a summary of those facilities in Oregon which have been identified according to their local authorizing statute. These facilities are then rolled into federal categories provided in section 6.0 and divided by jurisdiction, including whether they are secure or nonsecure in custodial nature:

<u>FEDERAL CLASSIFICATIONS</u>	<u>AUTHORIZING STATUTES</u>	<u>COUNT</u>
(a) Facilities	28 C.F.R. § 31.304 (c)	142
(b) Prison Institutions	Citation unknown	14
(c) Collocated Facilities	34 U.S.C. § 11103 (28)	4
(d) Adult Lockup	28 C.F.R. § 31.304 (n)	117
(e) Adult Jails	28 C.F.R. § 31.304 (m)	37
(f) Secure Detention Facilities	34 U.S.C. § 11103 (12)	9
(g) Secure Correctional Facilities	34 U.S.C. § 11103 (13)	7

Effective FY21, Oregon has added 21 Court Holding facilities previously identified as "Institutions" to the category of "Adult Lockup."

See **Appendix A** for monitoring universe details.

7.0 INSPECTION OF FACILITIES

Effective Date: 10/1/2020	Supersedes: 11/1/2019
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP)
Policy #: OPPM 7.1-2	Subject: Inspection of Facilities
Federal References/Laws: 28 C.F.R. § 31.303(f)(1)(i)(C) ; 28 C.F.R. § 31.304 ; 34 U.S.C. § 11103	State References/Laws: OAR 423-155-0010

7.1 Summary of Requirement

Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. Although they are not required to do so under the JJDP or the Formula Grants Program Regulation, OJJDP strongly recommends that states strive to inspect 100 percent of all secure facilities within the monitoring universe once every 3 years.³ States must periodically inspect nonsecure facilities to determine whether their physical characteristics have changed (e.g., through the addition of cells, cuffing rails, cuffing benches, or other construction fixtures designed to securely detain individuals), such that those facilities are now secure and meet the definition of a jail or lockup for adults, secure detention facility, secure correctional facility, or other institution (secure facility) in which juveniles might have contact with adult inmates. The inspection must include a review of the:

1. Physical accommodations to determine whether it is a secure or nonsecure facility and whether adequate sight and sound separation between juvenile and adult inmates exists; and
2. Recordkeeping system to determine whether sufficient data are maintained to determine compliance with the DSO, separation, and jail removal requirements.

7.2 Procedure for Inspecting Facilities

- (1) In accordance with the rules set forth in 28 C.F.R. § 31.303(f)(1)(i)(C), including definitions provided in 34 U.S.C. § 11103 and 28 C.F.R. § 31.304, institutions classified as:
 - (a) "Collocated" facilities in section 6.0 – "Classification," of this manual will be inspected at a rate of 100% per federal fiscal year; and

- (b) "Secure" facilities (i.e. "Institutions") in section 6.0 – "Classification," of this manual will be inspected at a rate of 40% per federal fiscal year, but no less than 100% every three years for the purpose of;
- i. Verifying the facility's reported classification, residential capacity, and use of construction features designed to restrict the movements of individuals in custody;
 - ii. Ensuring that each facility is prepared through either structure or policy to adequately comply with subsection (1) of this paragraph by:
 1. Verifying the adequacy of separation between juveniles and adults while in custody;
 2. Limiting the time that a juvenile may be detained with respect to the classification of the facility and the applicable guidelines referenced in subsection (1) of this paragraph;
 3. Prohibiting the detainment of status/non-offending type juveniles from detainment in a facility for adults or placement in a facility for juveniles unless by exception; and
 4. Reviewing the facility's reported classification and the accuracy of records submitted for the purpose of verifying compliance.
 - iii. Ensuring that juveniles are properly documented in an approved manner, to include, but not be limited to:
 1. Identification number, such as a case, booking, youth or other number linked to identifying the juvenile;
 2. Age information, provided as either a date of birth or the age of the individual at the time of referral, detention, or placement;
 3. Gender identity;
 4. Race or ethnicity identity;
 5. Decision Point;
 6. Most serious alleged offense;
 7. Date and time the juvenile arrived at the Institution;
 8. Date and time the juvenile was released from custody at the Institution.
- (2) Facilities classified as "nonsecure" in section 6.0 – "Classification," of this manual will be inspected at a rate of no more than 15% but no less than 5% per federal fiscal year, for spot-checking each facility's continued non-secure status.
- (3) Facilities reassessed as "secure" through on-site inspections will be monitored in accordance with the standards provided in subsection (1) of this paragraph.
- (4) Findings of non-compliance shall initiate a written letter outlining the standards that were violated, and a corrective action plan, per section 3.0 – "Violation Procedures," of this manual.
- (5) Summary records will be reflected in the monitoring universe for reporting activities by February 20 of the following reporting period.
- (6) Procedures for inspecting facilities as outlined in subsection (1) of this paragraph may be adjusted to account for emerging threats to safety which could impact the health of staff (i.e. conditions of

safety, increment weather, pandemic, etc.). Oregon will coordinate its compliance with OJJDP in the event of an emergent threat that could also impact the state's ability to conduct inspections on-site.

8.0 DATA COLLECTION, VERIFICATION AND ANALYSIS

Effective Date: 10/1/2020	Supersedes: 11/1/2019
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP)
Policy #: OPPM 8.1-2	Subject: Data Collection, Verification and Analysis
Federal References/Laws: 28 C.F.R. § 31.303(f)(1)(D) and (5) ; 28 C.F.R. § 31.304 ; 34 U.S.C. § 11103	State References/Laws: OAR 423-155-0010

8.1 Summary of Requirement

Pursuant to 28 C.F.R. § 31.303(f)(1)(D) and (5), states must collect and verify data from all facilities in the monitoring universe that are required to report data for the 12-month federal fiscal year (FY) reporting period to determine whether the facilities are in compliance with the applicable requirements of DSO, separation, and jail removal. OJJDP will accept and review state compliance data only for the applicable reporting period. States that are unable to report data for 100 percent of facilities must report data for at least 85 percent of facilities within the state that are required to report and must extrapolate and report, in a statistically valid manner, data for the remaining facilities. If the facility self-reports compliance data or an agency other than the DSA collects and reports compliance data, the DSA must have a documented and traceable process to review a statistical sample of facility admissions records and booking logs to verify that the data are accurate. The data collection and verification process must be completed prior to submission of the annual compliance monitoring report.

8.2 Procedure for Collecting and Verifying Data

- (1) In accordance with the rules set forth in 28 C.F.R. § 31.303(f)(1)(D) and (5), including definitions provided in 28 C.F.R. § 31.304 and 34 U.S.C. § 11103, “Institutions” classified as:
 - (a) “Secure” facilities in section 6.0 – “Classification,” of this manual, shall for the purpose of compliance:
 - i. Document all juveniles detained in secure areas to include, at minimum:
 1. Identification number, such as a case, booking, youth or other number linked to identifying the juvenile;

2. Age information, provided as either a date of birth or the age of the individual at the time of referral, detention, or placement;
 3. Gender identity;
 4. Race or ethnicity identity;
 5. Decision Point;
 6. Most serious alleged offense;
 7. Date and time the juvenile arrived at the Institution;
 - A. Disposition at time of arrival (if applicable);
 - B. Disposition at time of release (if applicable);
 8. Date and time the juvenile was released from custody at the Institution.
- ii. Report all juveniles documented in secure areas between:
 1. October 1 – March 31, by April 30, of each federal fiscal year; and
 2. April 1 – September 30, by October 30, of each federal fiscal year.
 - iii. Retain records of all juveniles documented and reported to the council for a period of no less than one year, for verifying data on-site during inspections, in accordance with Section 7.0 – “Inspections,” of this manual.
 - iv. Provide, to the Youth Development Division –
 1. The agency compliance plan or juvenile policy relating to the use of lawful custody, detainment, confinement, placement, and release of juveniles (whichever is applicable);
 2. The facility floor plan which contains the layout of secure areas utilized for juvenile custody related purposes (if also used for adults); and
 3. Any memorandums, directives, or procedures relevant to the arrest, custody, placement and release of juveniles detained, confined, or placed;
 4. For the purpose of review, to –
 - A. The Youth Development Division at least once every three year period; or
 - B. When there is a new policy in effect, construction of a new secure facility, or, there has been a significant administrative change effecting the agency’s juvenile policy; or
 - C. Whenever a violation has been identified and confirmed.
- (b) “Secure” facilities that do not submit a declaration or detention report in April must report a full 12-month period of custody or admissions data by October 30, of each federal fiscal year; and
 - (c) “Secure” facilities that do not submit a declaration or detention report during either period will be documented as non-reporting and violations will be sought;
 - (d) “Nonsecure” law enforcement facilities shall complete a state classification survey at least once per biennium for the purpose of verifying their continued nonsecure status; and
 - i. If at any point a determination is made that the law enforcement facility has access to construction features, then such facility shall be classified as secure and monitored per section (1) subsection a. – c. of this chapter; and

- ii. If it is also determined that such facility has held the secure status for longer than a single reporting period and was not included in the last reporting period, then such facility will have a full 12-month projection imposed for violations of confinement initiated under Section 3.0 – “Violation Procedures” of this manual.
- (e) “Nonsecure” community-based facilities that are residential in nature may;
 - i. Submit a copy of their completed “*Census of Juveniles in Residential Placement*” survey, provided through the U.S. Department of Commerce, for each period released; or
 - ii. Be subject to biennial surveys provided by the state’s compliance monitor; and
 - iii. Spot-check to verify the residential facilities continued nonsecure status.
- (2) Violations of confinement identified during either reporting period will be addressed procedurally in section 3.0 – “Violation Procedures.”

9.0 COMPLIANCE REPORTING AND RECORD KEEPING

Effective Date: 10/1/2020	Supersedes: 11/1/2019
Agency/Division: ODE Youth Development Division	Program: Title II – 34 USC 11133: Juvenile Justice and Delinquency Prevention Act (JJDP A)
Policy #: OPPM 9.1-4	Subject: Compliance Reporting and Record Keeping
Federal References/Laws: 28 C.F.R. § 31.303(f)(5) ; 34 U.S.C. § 11133(a)(14)	State References/Laws: State laws do not direct the reporting of compliance as this is only required to certify compliance through the Title II Formula Grant Application.

9.1 Summary of Requirements

States must annually submit all compliance materials for OJJDP to determine the state's compliance with the DSO, separation, and jail removal requirements through OJJDP's Compliance Reporting System. OJJDP makes available to states a system for submitting their data that allows OJJDP to make determinations of their compliance with DSO, separation, and jail removal. (See the Title II Formula Grants Program solicitation for the required compliance data and supporting documentation for the relevant fiscal year.) States that are unable to report on 100% of their facilities that are required to report data must provide data for at least 85 percent of their facilities and extrapolate and report, in a statistically valid manner, data for the remaining facilities, pursuant to 28 C.F.R. § 31.303(f)(5). A state that fails to comply with this requirement will be presumed to have an inadequate system of monitoring, thereby failing to comply with 34 U.S.C. § 11133(a)(14) and thus ineligible for a formula grant award. This report is due by February 28, and the submission must cover the previous federal fiscal year. OJJDP will accept and review data to demonstrate compliance only from the applicable reporting period.

9.2 Compliance Reporting

Effective October 1, 2016, all compliance monitoring activities and reports were aligned with the federal fiscal year, in lieu of the calendar year, as required by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Data reported each year now accounts for an entire 12-month period along a federal fiscal timeline (October 1 – September 30). This information is generally due to the Youth Development

Division (YDD) by December 30 at the latest. As the monitoring agency, the YDD will summarily report individualized data received through collection from facilities to the OJJDP. The purpose of which is to demonstrate Oregon's compliance under 34 USC 11133 Section 223(a)(14). Facilities which fail to report whether juveniles were detained or not by December 30 are reported to the OJJDP by February 20. Core violations are then projected against the state for each non-reporting facility. Information reported includes:

1. This compliance plan;
2. The total number of facilities monitored which meet the definition of an -
 - a. Institution;
 - b. Adult Jail;
 - c. Adult Lockup;
 - d. Secure Detention; or
 - e. Secure Correctional Facility.
3. The total number of regulatory departures identified within the data received from the above facility-types, over the course of the most recent 12-month cycle, including –
 - a. How many of those departures were conducted in accordance with the federal exceptions permitted under 34 USC 11133 Section 223(a)(11), (12), or (13); and
 - b. How many departures were in violation of either the standard and the applicable exceptions permitted under 34 USC 11133 Section 223(a)(11), (12), or (13).
4. The total number of facility-types identified in b. – e. above, which failed to report over the course of the most recently 12-month cycle; and
5. The extent to which the state has in effect a policy which requires that individuals who work with both juveniles and adults, be trained and certified to work with juveniles.

9.3 Record Keeping

The Youth Development Division collects and maintains files for each facility listed in the monitoring universe. Records are maintained for the minimum required time allotted by the Oregon Department of Administrative Services (DAS) [Policies and Procedures](#). All current, active records are maintained within the DSA's online monitoring universe in Smart Sheets Facility records that become outdated are housed on the agency's share drive prior to being archived in accordance with administrative policies.

10.0 APPENDIX A – FACILITIES

10.1 Monitoring Universe

States are required to provide a universe of facilities monitored as part of their annual Title II application. While the minimal information required to disclose is a facility name, address, and last date of inspection, Oregon’s monitoring universe is more extensive. In its default state, the monitoring universe contains 330 rows where each corresponds to a different facility, including 18 columns where each corresponds to a specific element or feature of that facility. This information serves to aid the monitoring agency in its compliance efforts but it not disclosed during the application process:

1. Administrative agency;
2. Administrative jurisdiction;
3. Administrative sector;
4. Administrative website;
5. Administrative head;
6. Facility operations head;
7. Name of facility administered by agency;
8. Facility street address, city, and zip;
9. Parent/Sibling relationship to other facilities ;
10. Local facility defining statute ;
11. Capacity to securely confine via contruction features (secure vs. nonsecure) –
 - a. If secure, then:
 - i. Number of individual hard cells;
 - ii. Number of lockable interview rooms;
 - iii. Number of stationary cuffing apparatuses; and
 - iv. If greater secure perimeter exists, then:
 1. Intoxilyzer;
 2. Residential capacity;
 3. Soft-interview room located outside of secured perimeter.
12. Population type (adults, juveniles, or both);
13. Custody type (pre/post-conviction/adjudication);
14. Federal classification;
 - a. If Institution then:
 - i. Facility policy and procedure Manual on-file; and
 - ii. Emergency evacuation floor plan if classified as an Adult Jail, Lockup or Collocated Facility.
15. Last reporting period (if applicable)
16. Date of last inspection/spot-check
17. Date of projected inspection/spot-check
18. Inspection Report On-File

10.2 Collocated Facilities

States are required to provide a list of juvenile and adult facilities that are collocated. These are facilities that share a building, fencing perimeter, or other feature conjoining them. These facilities must be inspected annually to ensure that adequate separation between juveniles and adults inmates is maintained. Oregon has four such facilities as noted below, all of which are juvenile facilities collocated with an adult jail:

- A. **Wasco County Juvenile Detention Facility** | 211 Webber Rd. The Dalles, OR. 97058 – Last inspected on September 22, 2020;
- B. **Jackson County Juvenile Detention Facility** | 609 West 10th St. Medford, OR. 97591 – Last inspected on September 29, 2020;
- C. **Yamhill County Juvenile Detention Facility** | 535 NE 5th St. McMinnville, OR. 97128 – Last inspected on September 23, 2020; and
- D. **Douglas County Juvenile Detention Facility** | 215 S.E. Jackson St. Roseburg, OR. 97470 – Last inspected on September 28, 2020.

Each of these facilities was inspected in FY20 due to the annual requirement, and will be inspected again in FY21.

10.3 Rural Exception Facilities

States are required to provide a list of facilities approved for what is called the “rural, removal exception.” Authorized under 34 USC 11133(a)(B)(i) and (ii)(I), this exception allows facilities located outside of a metropolitan statistical area (as defined by the Office of Management and Budget), with no existing acceptable alternative placement available, to detain juvenile offenders for up to 48 hours (excluding legal weekends and holidays. This exception must be applied for and approved by OJJDP through the Oregon Youth Development Division (YDD). Use prior to approval will result in violations of “Jail Removal” if detained in a facility for adults. Oregon has one facility in the state which is approved to use this exception as follows:

- A. **Wallowa County Lockup** | 104 W Greenwood St. Enterprise, OR. 97828 – Last inspected on August 9, 2019.

10.4 Non-Reporting Facilities

States are required to provide a list of facilities which missed reporting in the current year being certified. In summary of FY20 (October 1, 2019 – September 30, 2020), the YDD met the goal of having at least 85% of its total facility count report. Broken down is the percentage for each facility-type:

- A. **89%** for Adult Jails
- B. **96%** for Adult Lockups
- C. **100 %** for Collocated Facilities
- D. **100%** for Juvenile Detention Facilities
- E. **100%** for Youth Correctional Facilities

Usually, when a facility in Oregon fails to report, it is because they forgot, changed positions, or that staff had made the assumption that reporting didn't apply to them as an "adult only" facility. This is a common misconception given the absence of juveniles in some facilities, and prevalence of adults. Therefore, one of the challenges in the state is not acquiescing facilities which do handle juveniles to comply, but getting those which do not to remember to certify. This is why Oregon differentiates reporting-types from a detention report to disclose the juveniles detained vs. a declarative report certifying the absence of juveniles detained. These definitions can be found in [OAR 423-155-0001 \(12\) and \(10\)](#).

The list of facilities which did not report in FY20 is submitted separate from this document and are not disclosed in this plan. Oregon will acquire the missing data or certify no juveniles were detained from the non-reporting facilities in FY21 and FY22.

10.5 Inspection of Facilities

States are required to inspect facilities for their ability to provide separation between juveniles and adults, and to verify data submitted to the state's DSA (Designated State Agency). A state must be able to inspect 100% of its secure Institutions at least once every three years as evidence of an "effective" system of monitoring. Oregon typically accomplishes this by maintaining a 40% annual inspection rate. This is carried out March – September of every calendar year, while data collection, analysis, and reporting is carried out October – February.

Unfortunately, this three-year planning cycle began October 1, 2019 – approximately 4 months before COVID restrictions began being put into place. In addition to being part of an at-risk population, the state's compliance monitor's role as an "essential" employee of the state was unclear, and therefore travel prohibited. Because of this, Oregon developed a policy for carrying out virtual inspections in lieu of being on-site as a proposal for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to consider. From there, it would take six months before approval was given by the State to inspect its four collocated facilities in September 2020, and another three months before OJJDP confirmed they would honor "virtual" inspections as "physical" Throughout this entire period, various orders restricting travel were released ([linked here](#)) in addition to the Center for Disease Control (CDC) issuing travel warnings.

Oregon had conducted four in-person inspections of its collocated facilities for the FY20 reporting period, 35 virtual inspections during the FY21 reporting period, and resumed in-person inspections June of 2021 since being vaccinated. Oregon is committed to inspecting 100% of its 190 secure facilities by September 30, 2022, to be considered in compliance for the FY23 Title II application. This can be done by averaging approximately 15 facility inspections per month to have 100% completed by the end of FY22.

11.0 APPENDIX B – REQUIREMENTS

11.1 Court Holding Requirement

This section is outlined solely for addressing secure court holding facilities which now qualify as “Adult Jails and Lockups” (34 USC 11103(22)), for the purpose of monitoring.

Effective October 1, 2020, the Juvenile Justice and Delinquency Prevention Act (JJDP Act), as amended by the Juvenile Justice Reform Act (JJRA) of 2018, expanded the definition of “Adult Jail or Lockup” to include secure facilities that are used by a court of law to detain or confine adults. Oregon defines “Court Facilities” under [ORS 166.360\(2\)](#) as “a courthouse or the portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.”

Oregon has outlined the number of facilities utilized by a court that may qualify as an “Adult Jail and Lockup” in 6.0 – “Classification of Facilities.” However, based on past practice observed through inspection, it is likely that less than half of these may even use their holding spaces for juveniles. Regardless, the YDD will survey these facilities in FY21, and inspect 100% prior to the end of FY22, for the purpose of:

- A. Verifying each facility’s local and federal classification;
- B. Ensuring juveniles are adequately documented and reported; and
- C. Providing technical assistance relating to complying with the JJDP Act.

Facilities utilized by court that meet this definition will now be monitored in accordance with 34 USC 11133 section 223(a)(12) – “Separation,” and Section 223(a)(13) – “Jail Removal,” anytime a juvenile becomes detained or confined. If the portion of the facility where a juvenile may be detained is also residential, then the facility will also be monitored in accordance with section 223(a)(11) – “Deinstitutionalization.”

Oregon notified the state’s trial court and facility administrators of this new requirement in 2021. These facilities will be identified through the agency administering the holding area or space that is classified as an adult jail or lockup. This could be the county’s sheriff’s office, juvenile department, judicial department, or other agency having administrative or policy control into the functions and operations of the qualifying facility.

11.2 Interest of Justice Requirement

This section is outlined solely for addressing the “interest of justice” requirement regarding juveniles transferred to adult court (34 U.S.C. § 11133(a)(11)(B)), for the purpose of monitoring.

Effective December 21, 2021, the Juvenile Justice and Delinquency Prevention Act (JJDP Act), as amended by the Juvenile Justice Reform Act of 2018, requires that 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” unless the Court has found that it would be in the “Interest of Justice” to do so. Oregon statute prohibits juveniles from detainment in a facility for adult unless by limited exception ([ORS 419C.130](#)). Only when accused of a serious criminal offense as described in ([ORS 137.707](#)), and waived from juvenile to adult court ([ORS 419C.349](#)) based upon written findings from the court, can a juvenile be housed in a facility for adults by agreement. In such cases, juveniles are then separated from adult inmates pursuant to the requirements of the Prison Rape Elimination Act (PREA). Juveniles are generally confined in facilities for juveniles pending the outcome of their trial in most cases, and sentenced to a facility for juveniles thereafter.

Oregon notified the state’s trial court and facility administrators of this new requirement in 2021. Prior to the effective date of this requirement, the Youth Development Division (YDD) will survey each of its counties in an effort to identify adult facilities used to detain juveniles transferred into adult court. The YDD’s compliance monitor will provide technical assistance where needed for ensuring that the “interest of justice” requirement is met, in addition to inspecting 100% of its adult facilities which may hold juveniles by the end of FY22. During this time, the YDD will establish a plan for those counties which may hold juveniles to ensure that all appropriate documentation is included when data requested from facilities is collected. Violations will result whenever a juvenile is detained in a facility for adults beyond what is permitted by exception or within “the interest of justice.”