



*South Dakota
Department of Corrections*

Compliance Monitoring Manual:

Administrative Policies and Procedures for the Custody of Juveniles in South Dakota

March 2009

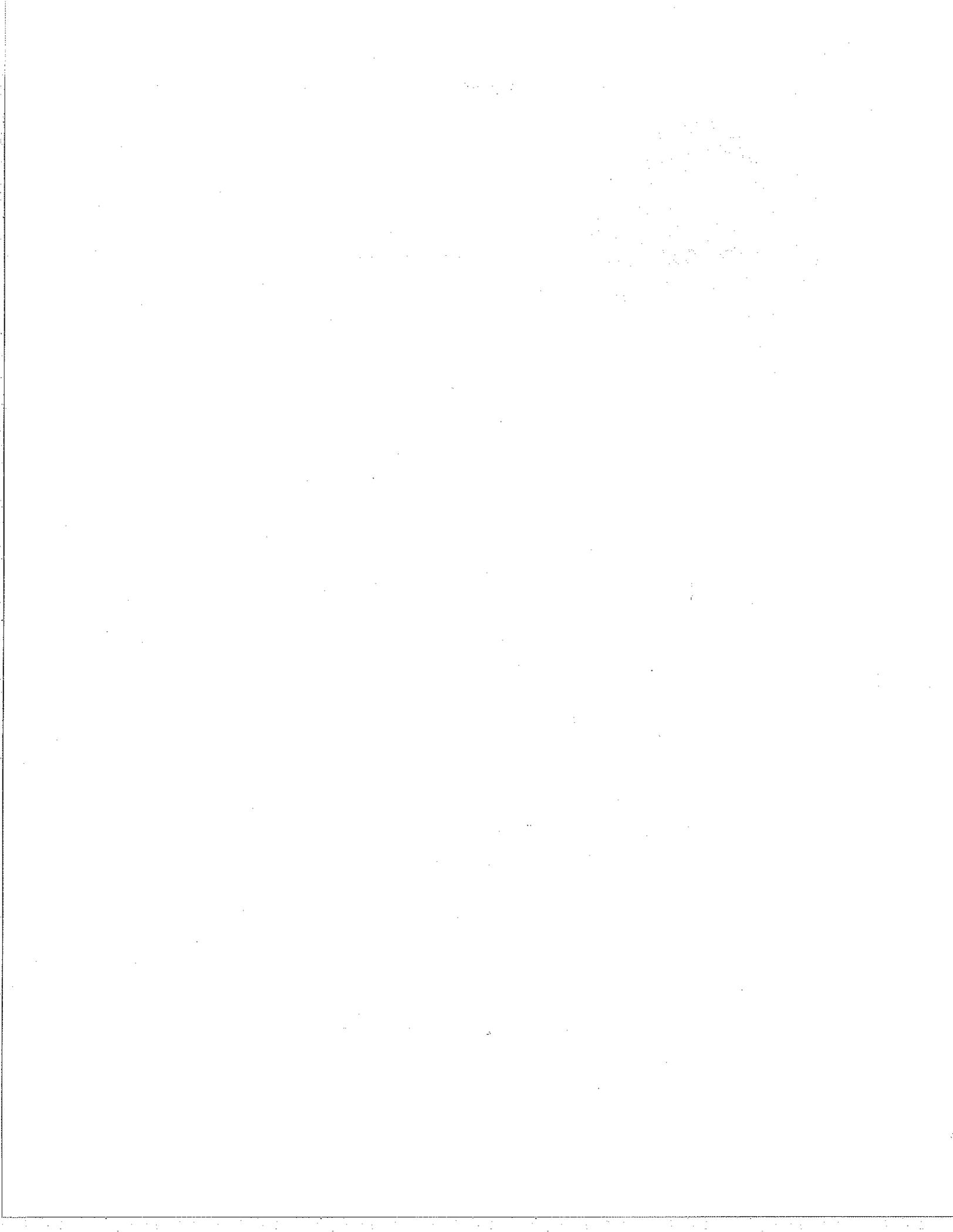


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I Juvenile Justice Delinquency Prevention Act

A Act Requirements

The Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974, as amended [42 U.S.C. 5601], was adopted by the U.S. Congress in order to establish a comprehensive nationwide program of juvenile delinquency prevention, offender rehabilitation and juvenile justice system improvements. States, which receive JJDP funds, are required to comply with the requirements contained in the JJDP. Since South Dakota is a recipient of the Formula Grant Funds, staff throughout the juvenile justice system should assist in complying with the requirements of the Act.

The Juvenile Justice and Delinquency Prevention Act contains the following core requirements:

1 Deinstitutionalization of Status Offenders (DSO)

This requirement calls for the use of nonsecure alternatives for juveniles who are nonoffenders, are charged with status offenses, or are adjudicated as status offenders. The following exceptions are made:

- 24-Hour Exception
- Valid Court Order Exception
- Out-Of-State Runaways
 - Federal Wards

2 Sight and Sound Separation

This requirement calls for separation of juveniles from adult offenders. If a facility cannot provide sight and sound separation, juveniles must not be detained within the facility.

3 Jail Removal

This requirement stipulates that no juvenile shall be detained or confined in any adult jail or lockup. The following exceptions are made:

- Juveniles accused of a criminal act may be held for up to six hours for processing if sight and sound separated from adult inmates.
- Juveniles accused of a criminal act in rural areas where court or travel are problems if sight and sound separated from adult inmates.
- Juveniles accused of a criminal act that are waived to adult court may be detained because they are no longer under the jurisdiction of the JJDP Act.

4 Disproportionate Minority Contact (DMC)

If the number of juveniles from minority groups who are in contact with the juvenile justice system exceeds the proportion such groups represent in the general population, then plans must be made in order to address these issues.

B Offender Requirements**1 Juvenile Delinquents****a) General Requirements**

South Dakota State Law Chapter 26 provides a juvenile delinquent may be held in an adult lockup or jail for up to six hours for purposes of identification, processing, interrogation, transfer to juvenile facility, or release to parents as long as the juvenile is sight and sound separated from adult prisoners.

b) Custody Procedures

As set forth in South Dakota Codified Law Chapter 26, upon taking a juvenile into custody, where the child is involved in or charged with a delinquent act, the parent(s), legal guardian, or person legally responsibly must be immediately notified that the juvenile is in custody. If the legally responsible person cannot be located after reasonable inquiry, the officer or party taking temporary custody of the child shall report that fact and the circumstances immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian, or custodian, without unnecessary delay, of the time, date, and place of the temporary custody hearing. This hearing shall be held within forty-eight, excluding Saturdays, Sundays, and court holidays, following an admission of the juvenile to temporary custody, unless extended by order of the court. Failure to notify the child's

parents, guardian, or custodian of the temporary custody hearing is not cause for delay of the hearing if the child is represented by an attorney at the hearing.

2 Status Offenders (CHINS)

a) General Requirements

South Dakota State Law Chapter 26 provides that an apparent, alleged, or adjudicated child in need of supervision may not be securely detained in a jail, lockup, or in any type of detention or temporary care facility containing adult prisoners except for approved collocated detention centers.

b) Custody Procedures

As set forth in South Dakota Codified Law Chapter 26, upon taking a juvenile into custody, where the child is involved in or charged with a delinquent act, the parent(s), legal guardian, or person legally responsibly must be immediately notified that the juvenile is in custody. If the legally responsible person cannot be located after reasonable inquiry, the officer or party taking temporary custody of the child shall report that fact and the circumstances immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian, or custodian, without unnecessary delay, of the time, date, and place of the temporary custody hearing. This hearing shall be held within twenty-four, excluding Saturdays, Sundays, and court holidays,

following an admission of the juvenile to temporary custody, unless extended by order of the court. Failure to notify the child's parents, guardian, or custodian of the temporary custody hearing is not cause for delay of the hearing if the child is represented by an attorney at the hearing.

3 Abused and Neglect Children

a) General Requirements

South Dakota State Law Chapter 26 provides that no apparent, alleged, or adjudicated abused or neglected child may be securely detained at any time in a jail, lockup, or in any type of detention or temporary care facility containing adult prisoners.

b) Custody Procedures

As set forth in South Dakota Codified Law Chapter 26, upon taking a juvenile into custody, where the child is involved in or charged with a delinquent act, the parent(s), legal guardian, or person legally responsibly must be immediately notified that the juvenile is in custody. If the legally responsible person cannot be located after reasonable inquiry, the officer or party taking temporary custody of the child shall report that fact and the circumstances immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian, or custodian, without unnecessary delay, of the time, date, and place of the temporary custody hearing. This hearing shall be held within

forty-eight hours if it concerns any apparent abused or neglected child. Failure to notify the child's parents, guardian, or custodian of the temporary custody hearing is not cause for delay of the hearing if the child is represented by an attorney at the hearing.

II Monitoring System

A JJDP Requirements

States participating in the JJDP Act Formula Grants Program must provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and nonsecure facilities to ensure that the core protections are met. As part of an adequate system of monitoring facilities, the state must describe its plan, procedure, and timetable for monitoring. The plan must describe in detail each of the following tasks, including the identification of the specific agency responsible for each task:

- Identification of the monitoring universe.
- Classification of the monitoring universe.
- Inspection of facilities.
- Data collection and data verification.

A state's monitoring system must describe procedures established for receiving, investigating, and reporting complaints of violations of DSO, jail removal, and separation requirements include both legislative and administrative procedures and sanctions.

B Definition

The South Dakota Compliance Monitoring System is set up in order to ensure that the juveniles of the state are being held in appropriate placements according to state and federal law. Included in these laws are the requirements of deinstitutionalization of status offenders and nonoffenders, separation of alleged and adjudicated delinquents, status offenders, and nonoffenders for adult

offenders within institutions, and the removal of juveniles from facilities maintained with an intent to hold adult criminal offenders.

C Responsible Entities

The South Dakota Council of Juvenile Services, whose members are appointed by the Governor, serves as the Advisory Group for the State's participation in the Formula Grants Program. The Council approves the State's Formula Grant application and budget as well as all compliance monitoring strategies. The agency responsible for the South Dakota Compliance Monitoring System, the administrative requirements of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) Formula Grants Program, and staffing the Council of Juvenile Services is the Department of Corrections as designated in SDCL 1-15-27 through 1-15-31.

D Responsibilities

Within the JJDPA, the Department of Corrections must submit a written plan (See Appendix A for the plan and plan updates) that provides for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to ensure that the core protections of the JJDPA are met. Within this plan is a description of the barriers faced in implementing and maintaining a monitoring system and the state and local strategies to overcome the barriers. In addition, the plan describes the legislative and administrative procedures, which have been established for the state to receive, investigate, and respond to reports of compliance violations.

As part of an adequate system of monitoring facilities, South Dakota describes its plan, procedure, and timetable for monitoring. The plan describes in detail each of the following tasks, including the identification of the specific agency or individual responsible for each task:

1. Identification of the monitoring universe: This refers to the identification of all facilities in the state, which might hold juveniles pursuant to public authority. Every facility, which has this potential, regardless of the purpose for housing juveniles, comes under the purview of the monitoring requirements. This also includes those facilities owned or operated by public and private agencies.
2. Classification of the monitoring universe: This is the classification of all facilities in the state to determine which ones should be monitored and which standards to use in the monitoring.
 - a. Facility Type
 - i. Secure DOC Facilities
 - ii. Jails
 - iii. Lockups
 - iv. Detention Centers
 - v. Collocated Facilities
 - vi. Private Residential Programs
 - vii. Mental Health Facilities
 - viii. Chemical Dependency Facility
 - ix. Group Homes/Shelters/Crisis Center

- b. Offender Type
 - i. Adult
 - ii. Juvenile
 - c. Security
 - i. Secure Facilities
 - ii. Non-Secure Facilities
 - d. Rural Removal Exception Jails
3. Inspection of facilities: Inspection of facilities is necessary to ensure an accurate assessment of each facility classification and record keeping. All facilities classified as secure detention or correctional facilities, jails, lockups, and other facilities must have periodic, on-site inspections to determine compliance with the core protections. The inspection must include:
- a. A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and
 - b. A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with DSO, jail removal, and separation.
4. Data collection and data verification: Data collection and reporting are required to determine whether facilities in the state are in compliance with the applicable requirements of DSO, jail removal, and separation. The length of the reporting period will be 12 months, but in no case less than 6

months. If reporting 6 months of data, the data will be projected for a full year in a statistically valid manner. If the data is self-reported by the facility or is collected and reported by an agency other than the state agency receiving Federal Grant funds, the plan must describe a statistically valid procedure used to verify the reported data. In order to verify analysis should include the following datasets verification of uniform intake procedures, UJS dispositional data, DOC Juvenile Offender Tracking System (JOTS) data, and jail and detention admission data.

E Purpose

The purpose of this Monitoring System is to monitor juveniles at each step within the juvenile justice system. This is achieved through the data collection of juvenile specific admission/release records from all secure facilities within the state. With this monitoring process, the issues of noncompliance can readily be addressed, barriers can be identified, and decision-makers can be kept informed in order to protect juveniles from harmful situations and unnecessary detention.

III Authority to Monitor

A JJDP Requirements

1 Adult Facilities

States must compile and report compliance monitoring data annually to the Administrator of OJJDP through an adequate system of monitoring. As part of this system, facilities must collect data on juveniles held and report the data to the state. In addition, the state must conduct regular onsite visits to monitor all adult jails and lockups and verify reported data.

2 Juvenile Facilities

States must compile and report compliance monitoring data annually to the Administrator of OJJDP through an adequate system of monitoring. As part of this system, facilities must collect data on juveniles held and report the data to the state. The state must conduct regular onsite visits to monitor the facilities and verify reported data.

3 Collocated Facilities

States must report annually to the Administrator of OJJDP on the results of monitoring for DSO, jail removal, and separation. An annual onsite review of the facility must be conducted by the compliance monitoring staff person(s) representing or employed by the state agency administering the JJDP Act Formula Grants Program. The purpose of the annual review is to determine if compliance with the collocated criteria is being maintained and to verify reported data.

4 Nonsecure Facilities

Nonsecure, community-based programs or facilities are exempt for the purposes of monitoring for compliance with DSO, jail removal, and separation. While core protections only apply to secure facilities, the state should monitor nonsecure facilities that hold juveniles to verify their nonsecure status. If the facility's status were to change and become secure, the facility must be monitored as an adult jail or lockup or other secure institution if it holds both juveniles and adult offenders. If it holds only juveniles (status offenders and delinquent offenders), it must be monitored as a secure juvenile detention center or correctional facility.

5 Mental Health Facilities

A juvenile committed to a mental health facility under a separate state law governing civil commitment of individuals for mental health treatment or evaluation would be considered outside the class of juvenile status offenders and nonoffenders. For monitoring purposes, this distinction does not permit placement of status offenders or nonoffenders in a secure mental health facility where the court is exercising its juvenile status offender or nonoffender jurisdiction. The state must ensure that juveniles alleged to be or found to be juvenile status offenders or nonoffenders are not committed under state mental health laws to circumvent the intent of DSO.

6 Native American Facilities

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

However, the JJDP Act was amended to require that a portion of each state's Formula Grant award be made available to fund programs of tribes that perform law enforcement functions. While the Act specifies a minimum level of funding, states may provide any amount in excess of the minimum amount required to accomplish the objectives of the JJDP Act within the tribe. Native American tribes that receive Formula Grant funds as part of the Native American Pass-Through requirement of the JJDP Act must comply with the core protections, and facilities on the reservation must be monitored by the state. In addition, if the tribe wishes to establish eligibility for Community Prevention Grant funds, the tribe must attempt

to comply with the core protections and facilities on the reservation must be monitored.

B Legislative Authority

Authority to monitor facilities within the South Dakota Justice System has been established within state laws (See Appendix B for specific statutes) regarding participation in formula grants program of Juvenile Justice and Delinquency Prevention Act. Within these statutes, the South Dakota Department of Corrections is responsible staffing, supporting grant-related activities for the Council of Juvenile Services, and implementing the plan in a manner, which will ensure compliance. The Department of Corrections shall seek necessary authority and take all necessary action as provided by law to enforce compliance with the Act (SDCL 1-15-28).

In addition to authority to implement the Formula Grants Program, statutes also require that facilities must maintain a log of admission, which must be made available to the Department of Corrections (SDCL 24-11-16).

IV Identification

A JJDPA Requirements

As part of an adequate system of monitoring facilities, Department of Corrections formula Grants Staff is responsible for the identification of all facilities in the state that might hold juveniles pursuant to public authority. Every facility that has this potential—regardless of the purpose for housing juveniles or operator—is subject to the monitoring requirements.

B Procedures

Identification of the monitoring system begins with looking at all available facilities in the state. A variety of resources is used in this identification process including state departments and other contacts.

- The Department of Corrections supplies information pertaining to those facilities that are run by the Department of Corrections for juveniles in the custody of the department and for adult criminal offenders. These facilities make up the “Correctional Facility” category within the monitoring universe.
- The Division of Criminal Investigation maintains the South Dakota Criminal Justice Directory from which a list, of Local Police Departments and County Operated facilities, is created. These facilities make up the “Local Police Department” and “County Law Enforcement” categories.
- The Department of Social Services provides an annual update for the licensed facilities approved by their department. These facilities make up the “Group Care,” “Residential Treatment,” and “Alternative care Program”.

- The Department of Human Services provides information on programming through out the state for mental health facilities and alcohol and drug rehabilitation. These facilities make up the “Mental Health Center” and “Treatment Program” categories.
- The Bureau of Indian Affairs District I Supervisory Detention Specialist provides information regarding the adult jails and juvenile detention facilities that are maintained on the reservations of South Dakota. The facilities make up the “Tribal Juvenile Detention Center” and “Tribal Jail/Law Enforcement” categories.
- In addition to these resources, the Department of Corrections Compliance Monitor is in charge of the approval for any Collocated Facility and must track the regional and privately run juvenile detention centers within the state.

V Classification**A JJDP A Requirements**

As part of an adequate system of monitoring facilities, Department of Corrections Formula Grants staff is responsible for the classification of all facilities in the state that might hold juveniles pursuant to public authority. Every facility that has this potential—regardless of the purpose for housing juveniles or operator—is subject to the monitoring requirements. Classification of these facilities is done in order to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or nonsecure facility.

B Procedures

Upon completion of facility identification, the Department of Corrections will contact appropriate persons within each department listed within the identification section to assign the correct program type and status. In addition, the Department of Corrections will survey facilities within the monitoring universe to help verify the correct classification for the facility.

C Administrative Classification Definitions**1 Adult Jail**

The term, jail, as used in this chapter includes any building or place provided or used by any county, municipality, or civil township for the detention of adult persons convicted or accused of the violation of any law of this state, any ordinance or bylaw of any municipality or civil township, or any rule or regulation of any board, commission, or public officer

having the effect of law; or for the detention of adult persons held as witnesses or committed for contempts, except juvenile detention facilities located outside jails and lockups and approved collocated detention facilities operated by counties. The governing body or commission responsible for the operation of a jail shall classify its jails based upon the types of persons detained therein and the maximum length of detention of persons in such jails (SDCL 24-11-1).

2 Collocated facility

A juvenile facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered "related" when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water, and sewer).

3 Detention facility

A secured, physically-restricting facility designed, staffed, and operated for children and separated by sight and sound from adult prisoners or a facility for children in the same building or secure perimeter as an adult jail or lockup, where children are sight and sound separated from adult prisoners, where staff in the detention facility are trained and certified by the entity operating facility to work with children, and the facility had been approved as a collocated facility by the Office of Juvenile Justice and Delinquency Prevention (SDCL 26-7A-1).

4 Secure correctional facility

A secure juvenile detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or nonoffenders. Many States use the term "training school" for juvenile correctional facilities.

5 Shelter

A shelter, or shelter care facility, is a physically-unrestricting home or facility for temporary care of a child (SDCL 26-7A-1).

6 Staff secure facility

A staff secure facility may be defined as a residential facility (1) which does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein; (2) which may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

7 Nonsecure custody

Nonsecure custody is constituted with in an adult jail or lockup facility by:

- (1) The area(s) where the juvenile is held is an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designated, set aside, or used as a secure detention area or is not part of such an area, or, if a secure area, is used only for processing purposes;

- (2) The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
- (3) The use of the area(s) is limited to providing nonsecure custody only long enough for and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
- (4) In no event can the area be designed or intended to be used for residential purposes; and
- (5) The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

In addition, a juvenile placed in the following situations would be considered in a nonsecure status:

- If certain criteria are met, a juvenile handcuffed to a nonstationary object: Handcuffing techniques that do not involve cuffing rails or other stationary objects are considered nonsecure if the five criteria listed above are adhered to.
- If certain criteria are met, a juvenile being processed through a secure booking area: Where a secure booking area is all that is available, and continuous visual supervision is provided throughout the booking process, and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules), the juvenile is not considered

to be in a secure detention status. Continued nonsecure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.

- A juvenile placed in a secure police car for transportation: The JJDP Act applies to secure detention facilities and secure correctional facilities, so a juvenile placed in a secure police car for transportation would be in a nonsecure status.
- A juvenile placed in a nonsecure runaway shelter, but prevented from leaving due to staff restricting access to exits: A facility may be nonsecure if physical restriction of movement or activity is provided solely through facility staff.

VI Inspection

A JJDP A Requirements

As part of an adequate system of monitoring facilities, the Department of Corrections formula Grants Staff is responsible for the inspection of all facilities in the state that might hold juveniles pursuant to public authority. Every facility that has this potential—regardless of the purpose for housing juveniles or operator—is subject to the monitoring requirements. Inspection of these facilities is done in order to ensure an accurate assessment of each facility's classification and record keeping. All facilities classified as secure detention or correctional facilities, jails, lockups, and other facilities must have periodic, onsite inspections to determine compliance with the core protections. The inspections include:

- A review of the physical accommodations to determine whether it is a secure or nonsecure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and.
- A review of the record keeping system to determine whether sufficient data are maintained to determine compliance with DSO, jail removal, and separation.

B State Monitoring

South Dakota Department of Corrections Compliance Monitor will conduct site visits and may request information, review data, and disseminate pertinent literature to facility staff. For a current list of facilities, see Appendix D.

1 Juvenile Detention Centers

All Juvenile Detention Centers shall be inspected annually. These visits allow for data verification and information exchange between the facility and the Department of Corrections Compliance Monitor.

2 Juvenile Correction Facilities

All Secure Correction Facilities shall be inspected annually and 30% of nonsecure facilities shall be inspected annually in order to verify that the facility maintains the nonsecure definition. These visits allow for data verification and information exchange between the facility and the Department of Corrections Compliance Monitor.

3 Collocated Juvenile Detention Facilities

All Collocated Juvenile Detention Facilities shall be inspected annually include the adult jail section to ensure that the facility meets the Standards of a Collocated Juvenile Detention Facility (See Appendix E) as required by the responsible agency and for data verification.

4 48 hour Rural Jail Exceptions

All Jails that meet the 48-hour Rural Jail Exception (See Appendix C), as provided by OJJDP, shall be inspected annually to ensure that they meet the requirements of the exception and for data verification.

5 Adult Jails

Any Adult Jail, that reported secure juvenile holdings, shall be inspected as needed to ensure that the juvenile(s) was held correctly and that they understand any violation that occurred to prevent further violations. In

addition, the responsible agency will sample 15% of all facilities that did not hold juveniles.

6 Adult Lockups (Sheriffs Departments and Local Police Departments)

Any Adult Lockup, that reported secure juvenile holdings, shall be inspected as needed to ensure that the juvenile(s) was held correctly and that they understand any violation that occurred to prevent further violations. In addition, the responsible agency will sample 15% of all facilities that did not hold juveniles.

In order to confirm the classification of a local law enforcement entity as administrative local law enforcement entities verses adult lockup, the designated state agency will use staff to complete these on-site verifications. Any location identified for reclassification will be contacted by staff for follow-up and/or additional visits.

7 Other Facilities

A sample of 5% of all other facilities that return the Facility Classification Survey as a nonsecure residential facility will be annually inspected to ensure that they are truly nonsecure.

A sample of 10% of all other facilities that return the Facility Classification Survey as a secure facility will be annually inspected to ensure that they are secure and that they are using correct admission procedures in order to be excluded from the monitoring process.

VII Data Collection

A JJDPA Requirements

As part of an adequate system of monitoring facilities, the Department of Corrections Formula Grants staff is responsible for the data collection from all facilities in the state that might hold juveniles pursuant to public authority. Every facility that has this potential—regardless of the purpose for housing juveniles or operator—is subject to the monitoring requirements. Data collection and reporting are required to determine whether facilities in the state are in compliance with the applicable requirements of DSO, jail removal, and separation. The length of the reporting period should be 12 months, but in no case less than 6 months. If reporting 6 months of data, the data must be projected for a full year in a statistically valid manner. If the data is self-reported by the facility or is collected and reported by an agency other than the state agency receiving federal grant funds, the plan must describe a statistically valid procedure used to verify the reported data.

B Collection

Collection is an ongoing process in which each facility is responsible for data submission of all records upon release from the facility. Through the year, letters will be sent to all facilities in order to update them on their data submission efforts. If data is not submitted by a facility the Department of Corrections Compliance Monitor will conduct facility inspections in order to gather the needed information.

Juvenile specific information collected is submitted on the Department of Corrections Juvenile Detention Records Sheet (See Appendix C) upon the youth's release from the facility. Exceptions will be made for facility admission reports that contain information equivalent to the record sheets. If a facility does not hold juveniles, they are also responsible for notifying the responsible agency using the Department of Corrections Non-Admission Verification Sheet (See Appendix C) at the end of each month.

Facilities that do not wish to due monthly submission will be required to complete an exception process. This process includes 1) written notice to the Department of Corrections Compliance Monitor that the facility wishes to pursue the exception, 2) the facility administrator providing documentation that the facility will under no circumstances hold a juvenile; and 3) the facility must have, within its operation manual, policy and procedures for arranging alternative options for a juvenile brought to the facility..

C South Dakota Exceptions

1 Deinstitutionalization of Status Offenders

a) 24-Hour Exception

The JJDP Act provides that status offenders, nonoffenders, and civil-type offenders not be detained or confined in secure detention or correctional facilities. There may be rare situations, however, where short-term secure custody of accused status offenders may be necessary. For example, detention in a juvenile facility for a brief period of time prior to formal juvenile court action for

investigative purposes, for identification purposes, or for the purpose of allowing return to the juvenile's parents or guardian may be necessary. Detention for a brief period of time under juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement. Therefore, OJJDP regulations allow a facility to hold an accused status offender in a secure juvenile detention facility for up to 24 hours, exclusive of weekends and legal holidays, prior to an initial court appearance and for an additional 24 hours, exclusive of weekends and legal holidays, immediately following an initial court appearance.

Status offenders who fail to appear for court hearings remain status offenders; they cannot be upgraded to delinquent offenders for their failure to appear.

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

b) Valid Court Order Exception

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

2002 defines a valid court order as a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to such order; and who received, before the issuance of the order, the full due process rights guaranteed to such juvenile by the Constitution of the United States.¹⁴ It is important to note that status offenders who violate a valid court order cannot be held securely in an adult jail or lockup for any length of time. For the VCO Exception to apply, the Act requires that the following actions occur when a status offender is taken into custody for violating a valid court order:

- An appropriate public agency must be promptly notified that the juvenile is held in custody for violating the order;
- Not later than 24 hours during which the juvenile is held, an authorized representative of the agency shall interview, in person, the juvenile; and
- Not later than 48 hours during which the juvenile is held:
- The representative must submit an assessment to the court that issued the order regarding the immediate needs of the juvenile; and
- The court shall conduct a hearing to determine whether there is reasonable cause to believe that the juvenile violated the order and the appropriate placement of the juvenile pending disposition of the alleged violation.

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

The following statute explains how a valid court order must be employed in order for South Dakota to take advantage of the Valid Court Order Exception.

26-8B-3. Circumstances requiring release--Circumstances allowing detention--Length of detention.

An apparent or alleged child in need of supervision taken into temporary custody by a law enforcement officer prior to a temporary custody hearing shall be released to the child's parents, guardian, or custodian unless the parents, guardian, or custodian cannot be located or in the judgment of the intake officer are not suitable to receive the child, in which case the child shall be placed in shelter. A child may be placed in detention for no more than twenty-four hours, excluding Saturdays, Sundays, and court holidays, if the intake officer finds that the parents, guardian, or custodian are not available or are not suitable to receive the child, and finds at least one of the following circumstances exists:

- (1) The child has failed to comply with court services or a court-ordered program;

(2) The child is being held for another jurisdiction as a parole or probation violator, as a runaway or as a person under court-ordered detention;

(3) The child has a demonstrated propensity to run away from the child's home, from court-ordered placement outside of the child's home or from agencies charged with providing temporary care for the child;

(4) The child is under court-ordered home detention in this jurisdiction; or

(5) There are specific, articulated circumstances which justify the detention for the protection of the child from potentially immediate harm to the child or to others.

The shelter or detention authorized shall be the least restrictive alternative available. The child may be held in detention up to an additional twenty-four hours following the temporary custody hearing pending transfer to shelter or release.

If the child is accused of or has been found in violation of a valid court order, the child may be placed in detention for more than twenty-four hours, if a temporary custody hearing, pursuant to § 26-7A-14, is held within twenty-four hours of the child being placed in a detention facility, an interview is conducted with the child, and a written assessment of the child's immediate needs is provided at the temporary custody hearing. The interview and

assessment may be conducted by law enforcement, states attorney, court services, or other public employee. The child may not be held in detention greater than seventy-two hours unless revocation proceedings have been initiated.

If the child is being held for another jurisdiction as a parole or probation violator, as runaway or as a person under court-ordered detention, the child may be placed in detention for more than twenty-four hours, and up to seven days, if a temporary custody hearing, pursuant to § 26-7A-14, is held within twenty-four hours of the child being placed in a detention facility.

If the requirements are not met under state and federal law the juvenile must be counted as a violation of Deinstitutionalization of Status Offenders (DSO).

c) Out-of-State Runaways

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

d) Federal Wards

The JJDP Act states that “ juveniles . . . who are aliens shall not be placed in secure detention facilities or secure correctional facilities.” Federal wards held beyond 24 hours in state and local secure detention and correctional facilities pursuant to a written contract or agreement with a federal agency and for the specific purpose of affecting a jurisdictional transfer, or appearance as a material witness, or for return to their lawful residence or country of citizenship must be reported as violations of the deinstitutionalization of status offenders requirement.

2 Jail Removal**a) Six Hour Exception**

In identifying South Dakota violations of Jail Removal, a 6-hour “grace period” that permits the secure detention in an adult jail or lockup of those juveniles accused of committing delinquent offenses is employed. Facilities that are allowed this exception must be approved by the Department of Corrections as providing sight and sound separation of juvenile and adult offenders. In instances where the 6-hour exception may be used an accused delinquent could be detained for up to 6 hours for the purposes of processing or release or transfer to a juvenile facility. Any holding of juveniles should be limited to the absolute minimum time necessary to complete these purposes, not to exceed 6 hours. An

accused or adjudicated delinquent could be detained for up to 6 hours before a court appearance and up to an additional 6 hours after a court appearance, but any hold of an adjudicated delinquent that is not related to a court appearance is a violation of jail removal.

Although South Dakota uses the 6-Hour Exception, the following situations do not allow for the use of the exception:

- Combination of 6-hour periods in order to extend the time frame.
- Once the juvenile has been placed in a secure custody status and the 6-hour period has begun, they cannot be removed and readmitted to secure custody in order to reset the 6-hour time period.
- Detainment of a status offender, nonoffender, alien juvenile, or civil-type juvenile offender for any length of time in an adult jail or lockup.
- Adjudicated delinquents detained for any length of time in adult jails or lockups as a disposition.
- Transfer of a juvenile to a jail or lockup from a juvenile detention center for disciplinary reasons.
- Failure to maintain sight and sound separation from adult offenders.

b) 48-Hour Rural Jail Exception

OJJDP regulations implement a statutory “rural” exception, allowing the temporary detention beyond the 6-hour limit of juveniles accused of delinquent offenses who are awaiting an initial court appearance with 48 hours (excluding weekends and holidays). It is important to note that the rural exception does not apply to status offenders and may not be held for any length of time in an adult jail or lockup.

All of the following conditions must be met in order for an accused juvenile delinquent offender, awaiting an initial court appearance, to be detained in an adult jail or lockup under the rural exception:

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

facilities to have been trained and certified to work with juveniles;

- The state must provide documentation that conditions listed above have been met. In addition, the state must have received prior approval from OJJDP to use the rural exception.

If all of the above conditions are met, a juvenile awaiting an initial court appearance may be detained for the following time periods:

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

c) Transfer or Waiver Exception

If criminal felony charges have been filed against a juvenile in a court exercising criminal jurisdiction, the juvenile can be detained in an adult jail or lockup. The jail and lockup removal requirement does not apply to those juveniles formally waived or transferred to

criminal court and against whom criminal felony charges have been filed or to juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges. Note that waiver or transfer and the filing of criminal felony charges does not transform a juvenile into an adult. Therefore, such a juvenile can be detained (or confined after conviction) in a juvenile facility and commingled with juvenile offenders until that juvenile reaches the state's age of majority, at which time, he or she must be separated from the juvenile population within 6 months.

D Analysis

1 Deinstitutionalization of Status Offenders (DSO)

The following steps are followed in order to identify DSO Violations:

- Separate all juvenile admission for the year.
- Remove all nonsecure holds
- Remove all delinquent admissions
- Identify any DOC CHINS held out-of-state at a secure facility.
- Remove all DOC records for any juveniles recorded as CHINS that are truly delinquent offenders (based on offense data in JOTS).
- Identify out-of-state runaways and federal wards.

Note: Out-of-state runaways and federal wards are reported on the Annual Compliance Monitoring Report but are removed as exceptions if they would put the state out of compliance.

- Check remaining juveniles for weekend holding.
- Contact facilities for additional information on file for the juveniles.
- Conduct verification with Unified Judicial System to identify unknown accused verses adjudicated juveniles.
- Check Unified Judicial System to identify and verify VCO exception.

Note: VCO exception juveniles are reported on the Annual Compliance Monitoring Report as an exception. Many numbers included on the report require VCO exceptions to be reported with all other numbers. If verification of VCO does not meet the requirements within state and federal laws, the juvenile cannot be included as a VCO exception.

- Identify any additional information that would explain the situation for reporting to the Council of Juvenile Services Compliance Monitoring Committee and the Council of Juvenile Services in order to notify them of any barriers within the state.

2 Jail Removal

The following steps are followed in order to identify jail removal violations:

- Check DOC records for any juveniles in as CHINS that are truly delinquent offenders.
- Separate all delinquent juveniles that have been admitted to Adult Jails, Non-Approved Collocated Facilities, and 48-Hour Rural Jails.

Note: All status offenders and abuse and neglect juveniles are jail removal violations, which would be reported under the DSO section of the Annual

Compliance Monitoring Report. For summary purposes, include status offenders and nonoffenders.

- Remove any juveniles held in a nonsecure setting.
- Remove any juvenile that was admitted to the facility for less than six (6) hours.

Note: Any juvenile admitted to the facility, in order to serve a sentence, is an automatic violation.

- Check juveniles for weekend holding.
- Remove any juvenile that was admitted to the facility for more than six (6) hours but less than forty-eight (48) hours from the facilities that are approved as 48-Hour Rural Jail Exceptions.
- Remove any juvenile that was admitted to the facility for more forty-eight (48) but less than an additional forty-eight (48) hours from the facilities that are approved as 48-Hour Rural Jail Exceptions (for the purpose of distance or weather).
- Identify any additional information that would explain the situation for reporting to the Council of Juvenile Services Compliance Monitoring Committee and the Council of Juvenile Services in order to notify them of any barriers within the state.

3 Sight Sound Separation

- Any juvenile held in a facility that has not been approved as sight and sound separated would constitute a violation.

- Any reports submitted as sustained sight and sound violations would constitute a violation.

E Verification

In order to verify information to ensure that proper procedures were followed, the Department of Corrections will contact the facility in which the juvenile was held for any additional information they have on file. If information within the file is not sufficient for verification, staff from the responsible agency will work with the Unified Judicial System to access court records and the juvenile's history and social case history.

VIII Compliance Barriers

A significant barrier in South Dakota involves the continuing education of justice professions to ensure that they understand the requirements and restrictions for hold juvenile offenders. Factors that contribute to this barrier include staff turnover, lack of commitment to Formula Grant Requirements, and failure to recognize situations that could lead to violations. In response to this barrier, South Dakota Formula Grants Staff will initiate ongoing communication with local juvenile justice practitioners through discussion, written correspondence, and on site targeted technical assistance visits for those location that have exhibited a large volume of cases that could lead to violations.

While South Dakota has a data collection process to collect admission data for all juveniles admitted to secure juvenile facilities and adult jails and lockups, no statewide data system is in place to track admissions to secure facilities outside that established under for Formula Grant Compliance Monitoring. In order to ensure that violations are identified and resolved in a timely manner, Staff will research and begin implementation of more effective data collection methods, which may include a web based data entry system.

IX Reporting

A Federal Reporting

The South Dakota Compliance Monitor is responsible for the collection of data from all facilities within the state's monitoring universe based on a calendar year schedule. Upon receipt of the information the Compliance Monitor will analyze, verify, and review the information.

The Compliance Monitor will then provide summary data and the completed Compliance Monitoring Report to the Council of Juvenile Services Compliance Monitoring Committee for approval and recommendations for the Council of Juvenile Services. The Council of Juvenile Services shall review the report and recommendations from the committee and approve the submission of the report to OJJDP by March 31. This timeframe provides the state to identify a compliance problem, develop a corrective action plan, and take the necessary steps to provide OJJDP with more current data demonstrating compliance, thereby maximizing the state's opportunity to receive its full fiscal year allocation.

Reports must be emailed to the state representative and a hard copy submitted to OJJDP, by June 30, at the following address:

US Department of Justice
OJJDP
Attn: Grants Administrator
800 K Street
Washington, DC 20531

B State Report

The Department of Corrections Formula Grant Program Staff and the Council of Juvenile Services Compliance Monitoring Committee will aid the Council of

Juvenile Services in meeting the requirements of state law reporting. Annual reports and recommendations are required to be to the Governor and Legislature concerning the functions of the Council of Juvenile Services and the status of the state's compliance with the Act.

C Sampling Procedures

South Dakota has not set up sampling procedures in order to generalize to large populations. Although previous Annual Compliance Monitoring Reports have been submitted based on six month collection—due to major mid-year changes in legislation—all data collected is analyzed in full and for the near future will continue to do in such a manner in order to avoid prediction errors relating to small numbers.

X Violation Procedures**A JJDP A Requirements**

A state's monitoring system must describe procedures established for receiving, investigating, and reporting complaints of violations of DSO, jail removal, and separation requirements. This should include both legislative and administrative procedures and sanctions.

B Facility Standards Violations

The South Dakota Department of Correction Compliance Monitor conducts site visits to ensure that both state and federal requirements are being met. Any violations will be verbally noted, at the time of the site visit, and a follow-up letter will be sent to document and notify the facility of the specifics of the violation and a timeframe for correcting the areas of noncompliance. If a facility does not meet the timelines of compliance, the Compliance Monitor will notify the Council of Juvenile Services Compliance Monitoring Committee of the violation. The Committee will work with the Compliance Monitor, the facility, and the Council of Juvenile Services to comply with the requirements. If the facility fails to comply with the requirements, the Department of Corrections will provide documentation notifying the facility that their authority to hold juveniles has been revoked until such time that the facility meets the requirements and follow-up site visits are conducted. Any unauthorized holds by the facility will be brought before the Council of Juvenile Services for determination of appropriate actions to take. At any time throughout this process, the Compliance Monitor may conduct unannounced site visits to ensure that the facility is working towards meeting the

areas of noncompliance, not holding juveniles, or meeting requirements previously found to be in compliance.

C Juvenile Holding Violations

The South Dakota Department of Correction Compliance Monitor is responsible for the data collection and analysis of all facility admissions. Any violation of either state or federal holding requirements will result in a verbal warning of the violation and a follow-up letter will be sent to document and notify the facility of the specifics of the violation and what options are available that would prevent future violations in similar situations. If a facility continues to hold juveniles in violation of the requirements, the Compliance Monitor will conduct a site visit to the facility for educational purposes and will notify the Council of Juvenile Services Compliance Monitoring Committee of the violation. If the violations continue to take place the Committee will work with the Compliance Monitor, the facility, and the Council of Juvenile Services to comply with the requirements. If the facility fails to comply with the requirements, the Department of Corrections will provide documentation notifying the facility that their authority to hold juveniles has been revoked until such time that the facility meets the requirements and follow-up site visits are conducted. Any unauthorized holds by the facility will be brought before the Council of Juvenile Services for determination of appropriate actions to take. At any time throughout this process, the Compliance Monitor may conduct unannounced site visits to ensure that the facility is working towards meeting the areas of noncompliance, not holding juveniles, or meeting requirements previously found to be in compliance.

D Complaints of Violations

The South Dakota Department of Correction Compliance Monitor will be responsible for investigating all complaints received by the Department of Corrections. Upon receipt of a complaint, the Monitor will follow-up with the facility and all other appropriate agencies in order to determine the cause of the violation. Any violation of either state or federal holding requirements will result in a verbal warning of the violation and a follow-up letter will be sent to document and notify the facility of the specifics of the violation and what options are available that would prevent future violations in similar situations. If a facility continues to hold juveniles in violation of the requirements, the Compliance Monitor will conduct a site visit to the facility for educational purposes and will notify the Council of Juvenile Services Compliance Monitoring Committee of the violation. If the violations continue to take place the Committee will work with the Compliance Monitor, the facility, and the Council of Juvenile Services to comply with the requirements. If the facility fails to comply with the requirements, the Department of Corrections will provide documentation notifying the facility that their authority to hold juveniles has been revoked until such time that the facility meets the requirements and follow-up site visits are conducted. Any unauthorized holds by the facility will be brought before the Council of Juvenile Services for determination of appropriate actions to take. At any time throughout this process, the Compliance Monitor may conduct unannounced site visits to ensure that the facility is working towards meeting the

areas of noncompliance, not holding juveniles, or meeting requirements previously found to be in compliance.

XI Monitoring Cycle

Compliance Monitoring Tasks	Date
Data Collection	Ongoing
Juvenile Detention Inspections	Ongoing
Collocated Facility Inspections	Ongoing
Adult Jail Inspections	Ongoing
48 Hour Rural Jail Inspections	Ongoing
Secure Juvenile Correction Facilities	Ongoing
Nonsecure Juvenile Correction Facilities	Ongoing
Send out Facility Classification Survey	December
Detention and Holdover Training	March
1 st Quarterly Letters – Update on current submission status	April
Finalize Data Verification – Submission to Compliance Monitoring Committee	July
2 nd Quarterly Letters – Update on current submission status	July
Submit Reports and Recommendations to the Council of Juvenile Services	September
Detention and Holdover Training	September
3 rd Quarterly Letters – Update on current submission status	October
4 th Quarterly Letters – Update on current submission status	January
Submit Annual report to OJJDP	March 31

APPENDIX A

South Dakota 3-Year Plan

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Please visit the South Dakota Department of Corrections Website to obtain the most recent copy of South Dakota's Plan.

APPENDIX B

South Dakota JJDP A Statutes

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South Dakota Codified Law

STATE AFFAIRS AND GOVERNMENT-DEPARTMENT OF CORRECTIONS

1-15-27. Participation in formula grants program of Juvenile Justice and Delinquency Prevention Act.

The State of South Dakota shall participate in the formula grants program established by Part B of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub.L. No. 93-415; 88 Stat. 1109, as amended (42 U.S.C. § 5601 et seq).

1-15-28. Department of Corrections to supervise participation in Juvenile Justice and Delinquency Prevention Act.

The Department of Corrections shall be responsible, through the Council of Juvenile Services established in § 1-15-29, for supervising the preparation and administration of the state's plan required by Section 223(a) for participation in the formula grants program of the Act. The Department of Corrections shall be responsible for providing staff and support services to the Council of Juvenile Services and implementing the plan in a manner which will ensure compliance with Sections 223(a)(12), (13), and (14) of the Act. The department shall seek necessary authority and take all necessary action as provided by law to enforce compliance with the Act.

1-15-29. Council of Juvenile Services in compliance with Juvenile Justice and Delinquency Prevention Act.

There is hereby established a twenty-member Council of Juvenile Services to be appointed by the Governor and shall be comprised of individuals who have training, experience, or special knowledge of juvenile delinquency prevention or treatment or of the administration of juvenile justice. The membership of the Council of Juvenile Services shall comply with Section 223(a)(3) of the Juvenile Justice and Delinquency Act. The initial members to be appointed shall draw lots to determine who will hold the eight three-year terms, the six two-year terms, and the six one-year terms. Thereafter, each member shall serve a term of three years. Members may be reappointed and may continue to serve an expired term until replaced by the Governor. A chairperson, who may not be a full-time federal, state, or local employee, for the Council of Juvenile Services shall be chosen annually by a majority vote of its members at the first meeting each fiscal year.

1-15-30. Responsibilities of Council of Juvenile Services.

The Council of Juvenile Services shall be responsible for the following:

- (1) In conjunction with the secretary of the Department of Corrections, establish policy on how the formula grants program of the Juvenile Justice and Delinquency Prevention Act is to be administered in South Dakota;
- (2) Approve the state plan, and any modifications thereto, required by 223(a) of the Act prior to submission to the Office of Juvenile Justice and Delinquency Prevention;
- (3) Submit annual recommendations to the Governor and Legislature concerning the functions of the Council of Juvenile Services and the status of the state's compliance with the Act;

- (4) Approve or disapprove grant applications and other funding requests submitted to the Department of Corrections under §§ 1-15-27 to 1-15-31, inclusive, and assist with monitoring grants and other fund awards;
- (5) Assist the Department of Corrections in monitoring the state's compliance with the Act;
- (6) Study the coordination of the various juvenile intervention, prevention, treatment, and rehabilitation programs;
- (7) Study effective juvenile sentencing, adjudication, and diversion policies and provisions;
- (8) Make a special study of, and make an annual report to the Governor, the Unified Judicial System, and the Legislature by June thirtieth of each year concerning, the appropriate administration of and provision for children in need of supervision in this state;
- (9) Contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and
- (10) Perform other such activities as determined by the Governor, the secretary of the Department of Corrections, or the Council of Juvenile Services.

1-15-31. Participation in Juvenile Justice and Delinquency Prevention Act contingent on funding.

Participation in the Juvenile Justice and Delinquency Prevention Act of 1974 is contingent upon appropriation of federal expenditure authority and general fund match for planning and administration purposes by the Legislature.

PENAL INSTITUTIONS, PROBATION AND PAROLE-JAILS

24-11-16. Jail records to be maintained.

The sheriff or other officer having charge of any jail shall keep jail records. These records shall be carefully kept and preserved and delivered to such officer's successor in office. The officer shall exhibit these records to any judge of the circuit court, if requested to do so, and to the Department of Corrections for the purposes on monitoring compliance with the requirements of the Juvenile Justice and Delinquency Prevention Act pursuant to § 1-15-28.

MINORS-COURT

**26-7A-15. Notice to parents, guardian, or custodian of child taken into temporary custody--
Notice of hearing--Failure to notify.**

The officer or party who takes a child into temporary custody, with or without a court order, except under a court order issued during a noticed hearing after an action has been commenced, shall immediately, without unnecessary delay in keeping with the circumstances, inform the child's parents, guardian, or custodian of the temporary custody and of the right to a prompt hearing by the court to determine whether temporary custody should be continued. If the child's parents, guardian, or custodian cannot be located after reasonable inquiry, the officer or party taking temporary custody of the child shall report that fact and the circumstances immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian, or custodian,

without unnecessary delay, of the time, date, and place of the temporary custody hearing. The hearing shall be held within forty-eight hours if it concerns any apparent abused or neglected child or if it concerns any apparent delinquent child pursuant to 26-8C-3 or within twenty-four hours if it concerns any apparent child in need of supervision pursuant to § 26-8B-3, excluding Saturdays, Sundays, and court holidays, after taking the child into temporary custody, unless extended by order of the court. Failure to notify the child's parents, guardian, or custodian of the temporary custody hearing is not cause for delay of the hearing if the child is represented by an attorney at the hearing.

26-7A-26. Detention in jail with adult prisoners prohibited for abused or neglected child--Temporary detention--Detention with adults for child transferred to adult court.

No apparent, alleged, or adjudicated abused or neglected child may be securely detained at any time in a jail, lockup, or in any type of detention or temporary-care facility containing adult prisoners. An apparent, alleged, or adjudicated child in need of supervision may not be securely detained in a jail, lockup, or in any type of detention or temporary care facility containing adult prisoners except for approved collocated detention centers as defined in § 26-7A-1 and as authorized in §§ 26-8B-3, 26-8B-6, and 26-7A-20.

An apparent or alleged delinquent child may be held in an adult lockup or jail for up to six hours for purposes of identification, processing, interrogation, transfer to juvenile facility, or release to parents if the child is sight and sound separated from adult prisoners.

In any area not designated as a metropolitan statistical area by the United States Bureau of the Census, an apparent or alleged delinquent child may be held in an adult lockup or jail for up to forty-eight hours excluding holidays and weekends or until the temporary custody hearing, whichever is earlier, if the facility has been certified by the Department of Corrections as providing sight and sound separation of juveniles from adults and if no suitable juvenile facility is available.

A child who has been transferred to adult court pursuant to § 26-11-4 or a child who is being tried in circuit court as an adult pursuant to § 26-11-3.1 may be held in an adult lockup or jail if physically separated from adult prisoners.

A child who has attained the age of majority who is under the continuing jurisdiction of the court may be held in an adult jail or lockup.

A child under the age of eighteen years who has been transferred to adult court pursuant to §§ 26-11-3.1 or 26-11-4 and who has been convicted of a felony as an adult may be held in an adult jail or lockup.

MINORS-DELINQUENT CHILDREN

26-8C-3. Release--Placement in shelter--Circumstances warranting detention.

An apparent or alleged delinquent child taken into temporary custody by a law enforcement officer prior to a temporary custody hearing shall be released to the child's parents, guardian, or custodian unless the parents, guardian, or custodian cannot be located or in the judgment of the intake officer are not suitable to receive the child, in which case the child shall be placed in shelter. A child may not be placed in detention unless the intake officer finds that the parents, guardian, or custodian are not available or are not suitable to receive the child, and finds at least one of the following circumstances exists:

- (1) The child is a fugitive from another jurisdiction;
 - (2) The child is charged with a violation of § 22-22-7, a crime of violence under subdivision 22-1-2(9) or a serious property crime, which, if committed by an adult, would be a felony;
 - (3) The child is already held in detention or on conditional release in connection with another delinquency proceeding;
 - (4) The child has a demonstrable recent record of willful failures to appear for juvenile court proceedings;
 - (5) The child has a demonstrable recent record of violent conduct;
 - (6) The child has a demonstrable recent record of adjudications for serious property offenses;
 - (7) The child is under the influence of alcohol, inhalants, or a controlled drug or substance and detention is the least restrictive alternative in view of the gravity of the alleged offense and is necessary for the physical safety of the child, the public, and others; or
 - (8) The child has failed to comply with court services or a court ordered program.
- The shelter or detention authorized shall be the least restrictive alternative available.

APPENDIX C

Glossary

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Abused or neglected child: the term, abused or neglected child, means a child:

- (1) Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian;
- (3) Whose environment is injurious to the child's welfare;
- (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
- (5) Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;
- (6) Who is threatened with substantial harm;
- (7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;
- (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;
- (9) Who was subject to prenatal exposure to abusive use of alcohol or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B ; or

- (10) Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacturing of methamphetamines.

Accused: A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court

Adjudication: A decision by the judge declaring the guilt or innocence of a child in juvenile court.

Adjudicated: A child who has been declared a child in need of supervision (CHINS) or a delinquent by the judge.

Adjudicatory hearing: a hearing to determine whether the allegations of a petition alleging that a child is abused or neglected are supported by clear and convincing evidence or whether the allegations of a petition alleging a child to be in need of supervision or a delinquent are supported by evidence beyond a reasonable doubt;

Adult: a person eighteen years of age or over, except any person under twenty-one years of age who is under the continuing jurisdiction of the court or who is before the court for an alleged delinquent act committed before the person's eighteenth birthday;

Adult Jail: The term, jail, as used in this chapter includes any building or place provided or used by any county, municipality, or civil township for the detention of adult persons convicted or accused of the violation of any law of this state, any ordinance or bylaw of any municipality or civil township, or any rule or regulation of any board, commission, or public officer having the effect of law; or for the detention of adult persons held as witnesses or committed for contempts, except juvenile detention facilities located outside jails and lockups and approved collocated detention facilities operated by counties. The governing body or commission responsible for the

operation of a jail shall classify its jails based upon the types of persons detained therein and the maximum length of detention of persons in such jails.

Advisory hearing: the initial hearing conducted by the court to inform the child and the child's parents, guardian, custodian, or other interested parties of their statutory and constitutional rights;

Best Interest of the Child Rule: Legal doctrine establishing court as determiner of best environment for raising child. An alternative to the Parens Patriae Doctrine.

Child: a person less than eighteen years of age and any person under twenty-one years of age who is under the continuing jurisdiction of the court or who is before the court for an alleged delinquent act committed before the person's eighteenth birthday;

Child in need of supervision: the term, child in need of supervision, means:

- (1) Any child of compulsory school age who is habitually absent from school without legal excuse;
- (2) Any child who has run away from home or is otherwise beyond the control of the child's parent, guardian, or custodian;
- (3) Any child whose behavior or condition endangers the child's own welfare or the welfare of others;
- (4) Any child who has violated any federal, state, or local law or regulation for which there is not a penalty of a criminal nature for an adult, except violations of subdivision 34-46- 2(2), or petty offenses; or
- (5) Any child who has violated § 35-9-2 or 32-23-21.

If a child is an enrolled member of a tribe, the INDIAN CHILD WELFARE ACT applies. This law requires that an Indian child's tribe be notified. A tribe may intervene in the proceedings and transfer the Indian child to its jurisdiction.

Civil-type offender: a juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include noncriminal traffic violations and noncriminal fish and game violations.

Collocated facility: a juvenile facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered "related" when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water, and sewer).

Commit: to transfer custody of a person;

Contact: any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

Court or juvenile court: the circuit court;

Court services Officer: An employee appointed by the court who investigates and reports to the court regarding the child and the incident bringing the child to the attention of the court. Court services officers make recommendations to the judge regarding disposition and can be appointed to supervise the child placed on probation.

Custodian: any foster parent, employee of a public or private residential home or facility, other person legally responsible for a child's welfare in a residential setting, or person providing in-home or out-of-home care; for purposes of this definition, out-of-home care means any day care as defined in §§ 26-6-14, 26-6-14.1, and 26-6-14.8;

Court holding facility: A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings.

Criminal-type offender: A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

Custody: Physical and/or legal control of a child. The exercise of care, supervision, and control over a juvenile offender or nonoffender pursuant to the provisions of the law or of a judicial order or decree

Delinquent child: the term, delinquent child, means any child ten years of age or older who, regardless of where the violation occurred, has violated any federal, state, or local law or regulation for which there is a penalty of a criminal nature for an adult, except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as misdemeanors, or petty offenses or any violation of § 35-9-2 or 32-23-21.

Deprivation of custody: transfer of custody of a child by the court from the child's parents, guardian, or other custodian to another person, agency, department, or institution;

Detention: the temporary custody of a child in secured physically restricting facilities for children, sight and sound separated from adult prisoners;

Detention facility: a secured, physically- restricting facility designed, staffed, and operated for children and separated by sight and sound from adult prisoners or a facility for children in the same building or secure perimeter as an adult jail or lockup, where children are sight and sound separated from adult prisoners, where staff in the detention facility are trained and certified by the entity operating facility to work with children, and the facility had been approved as a collocated facility by the Office of Juvenile Justice and Delinquency Prevention;

Disposition: The determination by the court of what treatment, rehabilitation or punishment the child will receive, after a finding by the court that the child is a CHINS or delinquent child.

Dispositional hearing: a hearing after adjudication at which the court makes an interim or final decision in the case;

Facility: A place, an institution, a building or part thereof, set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

Guardian: means a person appointed by a court to be responsible for the personal affairs of a minor or protected person, but excludes one who is merely a guardian ad litem.

Intake officer: a judge of a circuit court or the court's designee who may not be a court services officer, law enforcement officer, or prosecuting attorney who must decide, based upon established criteria, whether to temporarily hold a child in custody until a temporary custody hearing can be held.

Juvenile Diversion: An informal plan of treatment and rehabilitation for a child for up to 90 days that is designed to divert the child from being petitioned to juvenile court.

Juvenile offender: An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law, i.e., a criminal-type offender or a status offender.

Minor: a person who has not reached his or her eighteenth birthday;

Nonsecure custody: is constituted with in an adult jail or lockup facility by:

- (6) The area(s) where the juvenile is held is an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designated, set aside; or used as a secure detention area or is not part of such an area, or, if a secure area, is used only for processing purposes;
- (7) The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
- (8) The use of the area(s) is limited to providing nonsecure custody only long enough for and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
- (9) In no event can the area be designed or intended to be used for residential purposes; and
- (10) The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

In addition, a juvenile placed in the following situations would be considered in a nonsecure status:

- If certain criteria are met, a juvenile handcuffed to a nonstationary object:
Handcuffing techniques that do not involve cuffing rails or other stationary

objects are considered nonsecure if the five criteria listed above are adhered to.

- If certain criteria are met, a juvenile being processed through a secure booking area: Where a secure booking area is all that is available, and continuous visual supervision is provided throughout the booking process, and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules), the juvenile is not considered to be in a secure detention status. Continued nonsecure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
- A juvenile placed in a secure police car for transportation: The JJDP Act applies to secure detention facilities and secure correctional facilities, so a juvenile placed in a secure police car for transportation would be in a nonsecure status.
- A juvenile placed in a nonsecure runaway shelter, but prevented from leaving due to staff restricting access to exits: A facility may be nonsecure if physical restriction of movement or activity is provided solely through facility staff.

Parents: biological or adoptive parents of a child, including either parent, any single or surviving parent, and any custodial or noncustodial parent, jointly or severally;

Petition or Juvenile Petition: A written statement that tells the youth, parents, and the court what he or she is charged with doing and which brings the child within the court's jurisdiction.

Secure Custody: As used to define a detention or correctional facility, this term includes residential facilities that include construction features designed to physically restrict the

movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

Secure juvenile detention center or correctional facility: A secure juvenile detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or nonoffenders. Many States use the term “training school” for juvenile correctional facilities.

Shelter: a physically-unrestricting home or facility for temporary care of a child;

Staff secure facility: A staff secure facility may be defined as a residential facility (1) which does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein; (2) which may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

Status offender: A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. The following are examples of status offenses:

- Truancy
- Violations of curfew
- Unruly
- Runaway
- Underage possession and/or consumption of tobacco products

- Underage possession and/or consumption of alcohol. This offense is always considered a status offense, even though State or local law may consider it a delinquent offense.

Transfer: Taking a case out of juvenile court and placing it in adult court or taking it out of adult court and referring it to juvenile court.

Waived: Choosing to give up a right, such as to confront and cross-examine witnesses or the right to remain silent.

APPENDIX D

South Dakota Monitoring Forms

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Department of Corrections

3200 E Highway 34, c/o 500 E Capitol Avenue, Pierre, SD 57501 ~ Phone: 1-605-773-3478 ~ Fax: 1-605-773-3194

Juvenile Justice and Delinquency Prevention Program

Name: (Last, First, Middle)				Date of Birth:		Facility:					
Address:				Race:		Asian		Black		Hispanic	
				American Indian		Caucasian		Other			
City:		County:		State:		Zip:		Sex:		Ethnicity:	
								Male		Hispanic	
								Female		Non-Hispanic	
Placing Agency:						Officer Name:					
Offenses:						Code:					
1						4					
2						5					
3						6					

* For an offense that would not fall into any of the following list codes, write a description and leave the code blank.

Detention Events

Date Received				Date Released									
Time	Mo	Day	Year	Legal Status	Physical Condition	Detention Setting	Time	Mo	Day	Year	Release Status	Comments	

Legal Status		Alcohol/Drug Offenses		Status Offenses	
AD	Awaiting Detention Hearing	3550	Possession of Drug Para	7399	CHINS
AP	Awaiting Revocation Hearing	3551	Delivery of Drug Para	4199	Liquor Offenses
AS	Awaiting Sentencing	3563	Possess of Marijuana > 2oz	5000	Runaway
AT	Awaiting Hearing on Charges	3564	Possess of Marijuana < 2oz	7400	Curfew/Laundry
CO	Court Order	3565	Ingesting an illegal substance for intoxication	7401	Unmanageable Behavior
DX	Detoxification	3566	Huffing	7402	Protective Custody/Suicide Attempt
FD	Federal	3569	Distribution of Marijuana > 1/2 oz	7403	Other Juvenile Status Offenses
ML	Military	3570	Distribution of Marijuana < 1/2 oz	Property Offenses	
SS	Serving Sentence	3571	Distrib of Court Substance	2099	Arson 3rd- unoccupied structure
TR	Awaiting Transfer/Transportation	3572	Violation drug free zone	2203	Burglary 2nd- occupied day/n
TS	Transit	3599	Possess of Court Substance	2204	Burglary 3rd - Unoccupied
UI	Under Investigation	4199	Liquor Offense	2206	Burglary Tools - Possess
Physical Condition		4200	All Other Liquor Offenses	2300	Petty Theft (Class 1 Mis. >\$100; Class 2 Mis. <\$100)
A	Alcohol Intoxicated	5403	Zero Tolerance DUI	2303	Shoplifting
C	Chronic/Long-Term Illness	5404	Driving Under Influence 1st or 2nd Offense	2305	Burglary 4th Degree
D	Drug Intoxicated	5405	Driving Under Influence 3rd or Subsequent Offense	2399	Theft - Grand > \$500
F	Fair	5406	Open Container	2411	Unauthorized use of MV
G	Good	Parent Offenses		2412	Tampering with a Motor Vehicle
I	Acute Injury or Illness	0910	Manslaughter - 1st Degree	2501	Forgery
Detention Setting		0911	Manslaughter - 2nd Degree	2599	Counterfeiting
JD	Juvenile Detention Center	0998	Murder- 1st Degree	2602	False Reporting to Authorities
JC	Juvenile Collocate Facility	0999	Murder- 2nd Degree	2603	False Personation
HO	Holdover Site	1099	Kidnapping	2605	Insufficient Funds Checks > \$500 or No Account
ON	Other Non-Secure Facility	1202	Robbery 1st Degree	2606	Insufficient Funds Checks < \$500
JL	Jail (Adult)	1203	Robbery 2nd Degree	2698	Fraud >\$500
OS	Other Secure Facility	1311	Aggravated Assault	2699	Fraud <\$500
Release Status		1312	Child Abuse	2798	Embezzle >\$500
AP	Released to Parent/Guardian	1313	Simple Assault (1st or 2nd Offense)	2799	Embezzle <\$500
CM	Transferred to Med or Psych Facility	1314	Simple Assault (3rd or Subsequent within 5 Years)	2800	Sale of Stolen Property > \$500
CS	Completed Sentence	1499	Abortion	2801	Sale of Stolen Property < \$500
DA	Released to Non-Secure Facility	1602	Threat - Terroristic	2802	Receipt of Stolen Property > \$300
DE	Deceased	1603	Threat with/vict/officer	2803	Receipt of Stolen Property < \$300
DP	Deported	1604	Stalking (First Offense)	2804	Possession of Stolen Property > \$500
EM	Released to Electronic Monitoring	1605	Stalking (Sub w/7 years, Vict <12, or Violating Order)	2806	Possession of Stolen Property > \$500
EX	Escaped	2005	Arson 1st- know occupied	2901	Damage to Property > \$500
HO	Released to Home Detention	2006	Arson 2nd- w/o know occupied	2902	Damage to Property < \$500
NC	Released No Charge	2198	Extortion > \$500 Grand Theft	3998	Gambling 2nd or Subsequent Offense
OR	Released on Own Recognizance	2199	Extortion < \$500	3999	Gambling 1st Offense
PB	Placed on Probation	2202	Burglary 1st- occup weapo	4004	Prostitution
RA	Released to DOC	3605	Indecent Exposure 1st or 2nd Offense	5707	Trespassing
TR	Transferred to Other Facility	3606	Indecent Exposure 3rd Offense or Prior Adj. as SO	5898	Smuggling (Felony)
Weapons Offenses		3805	Contrib to Delinquency	5899	Smuggling (Misdemeanor)
5202	Carrying a Concealed Weapon	4899	Obstruct Police	VAN3	Vandalism > \$500
5203	Commission of a felony while armed	5198	Bribery (Public Official, Judicial Official)	VAN4	Vandalism <\$500
5210	Discharg Firearm-vehicle/Structure	5199	Bribery (Voter, Commercial)	Failure Offenses	
5212	Possession of Weapon	5308	Harassing Communication 2nd or Sub Offense	5311	Disorderly Conduct
5213	Reckless Discharge	5309	Harassing Communication 1st Offense	5312	Disturbance of School
5299	Weapon Offense - Other	5498	Traffic Offense (Vehicular Battery)	5010	Probation Violation (CHINS)
Escape Offenses		Sex Offenses		5011	Probation Violation (Delinquent)
4903	Aiding Prisoner Escape	1102	Rape 1st- victim under 10	5015	Failure to Appear On Misdemeanor Offense
4999	Flight- Escape	1103	Rape 2nd Degree-Force or incapable of consent	5016	Failure to Appear On Felony Charge
5000	Runaway	1116	Rape 3rd Degree-Statutory	5098	Resisting Arrest
8100	Escape from DOC custody	1117	Sex. Contact w/under 16 < 3 Years Age Difference	5099	Obstructing
Pickup Orders		1118	Sex. Contact w/under 16 > 3 Years Age Difference	5497	All Other Traffic Offenses
6000	Delinquent Bench Warrant	1199	Sex Contact w incap consent	5498	Traffic Offense (Vehicular Battery)
6001	Delinquent Pickup Order	3699	Sex Offense (Misdemeanor)	5499	Traffic Offense (Careless, reckless, exhibition, eluding)
6002	CHINS Pickup Order	3700	Sex Offense (Felony)	8101	Aftercare Violator
6003	DOC Pickup Order				

South Dakota Department of Corrections

Nonadmission Verification Sheet

Law Enforcement Agencies that operate a jail should submit this form for every month, if they DID NOT HOLD juveniles for the month indicated.

This form may be mailed or faxed to:

**Department of Corrections
Compliance Monitoring Data Collection
3200 E Highway 34
c/o 500 E Capital Avenue
Pierre, SD 57501
FAX#: 1-605-773-3194 PH#: 1-605-773-3478**

DID NOT HOLD juveniles in

Facility Name

Month and Year

Signature and Title

Date

APPENDIX E

South Dakota Collocated Standards

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State of South Dakota
Department of Corrections
Collocated Juvenile Detention Facility Approval Standards

I. Definition of Collocated Facility

Federal Definition – A collocated facility is a juvenile facility that is in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered related when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water, sewer) or beyond specialized services such as medical care, food service, laundry, maintenance and engineering.

State Definition - 26-7A-1. Terms used in this chapter and in chapters 26-8A, 26-8B, and 26-8C mean: ...

(16) "Detention facility," a secured, physically-restricting facility designed, staffed, and operated for children and separated by sight and sound from adult prisoners or a facility for children in the same building or secure perimeter as an adult jail or lockup, where children are sight and sound separated from adult prisoners, where staff in the detention facility are trained and certified by the entity operating facility to work with children, and the facility had been approved as a collocated facility by the Office of Juvenile Justice and Delinquency Prevention;

II. Collocated Juvenile Facility Approval Process

1. Facility provides written notice that they wish to be approved as a collocated juvenile detention facility.
2. Facility provides copies of the following materials to the Department of Corrections:
 - a floor plan, with juvenile, adult and shared spaces clearly delineated;
 - copies of policies and procedures and facility and program descriptions which outline how sight and sound separation is provided throughout the facility;
 - a description of the medical, dental, mental health, counseling and education services available for detained youth and the identity of the providers of these services
 - a training plan for facility staff shall be submitted which includes training on working with children (Note: Training records for custody staff will be checked during site visits.)
3. The Department will review the materials, request any needed clarifications or supplemental material and schedule a site visit.
4. The Department will conduct a site visit and facility review.

5. Based on the materials submitted and the facility review, the Department will issue an approval or a corrective action plan.
6. If a corrective action plan is issued, the Department will work with the facility operator to make those changes necessary to meet the standards, if feasible.
7. The Department of Corrections will review all approved collocated juvenile detention facilities on an annual basis.

III. Collocated Facility Approval Standards

1. Sight and Sound Separation of Juveniles from Adult

Standard 1.A. Floor plan and policies and procedures provide for no sustained sight and sound contact between juveniles and adult offenders;

Standard 1.B. Total separation of juveniles from adults is achieved in residential areas – sleeping, bathroom, and lavatory areas.

2. Staff Training

Standard 2.A. Facility has a staff training plan for staff who work with juveniles and training plan provides for adequate staff training on the following items:

- A. sight and sound separation of juveniles from adults,
- B. facility operations;
- C. security procedures;
- D. emergency procedures;
- E. safety procedures;
- F. supervision requirements;
- G. working with adolescents – which shall include, at a minimum, youth development, adolescent physical and mental health and nonviolent crisis intervention;
- H. suicide risks and precautions; and
- I. use of force.

Standard 2.B. Training records reveal staff are provided training consistent with the training plan and Standard 2.A. Training can be a combination of pre-service and in-service and classroom and on the job. Staff who are assigned to work in the facility have been certified by the facility administrator to work with juveniles.

3. Medical, Dental, Mental Health Services

Standard 3.A. Facility has identified medical, dental, mental health service providers and provides access to routine and emergency 24-hour medical, dental, and mental health services.

Standard 3.B. A medical, dental, mental health intake screening or questionnaire is completed upon admission by a health trained staff person (intake or custody staff trained by a health care professional) or a qualified health care professional (Nurse, Physicians Assistant, Certified Nurse Practitioner, or Medical Doctor).

Standard 3.C. A medical assessment or health appraisal is completed within one week of admission by or a qualified health care professional (Nurse, Physicians Assistant, Certified Nurse Practitioner, or Medical Doctor).

4. Access to Education

Standard 4.A. Youth detained more than 2 days, excluding holidays and weekends, are provided access to educational services.

5. Environmental Conditions

Standard 5.A. All areas of the facility complies with the following environmental conditions:

- A. Temperature of the facility is maintained within a range between 68°-80°;
- B. Ventilation is appropriate;
- C. Artificial lighting in residential and programming space is at least 20 foot candles;
- D. Facility is clean and free from pests;
- E. Facility is free from conditions that present safety or suicide hazards.

6. Supervision of Youth

Standard 6.A. Facility policy and procedures require staff to have direct visual observation of each youth at least every 30 minutes if the area is monitored by an assigned staff person through cameras and monitors. In facilities and areas without cameras and monitors, policy and procedures require staff to have direct visual observation of each youth at least every 15 minutes. Youth placed on suicide precautions shall be check by direct visual observation at least every 5 minutes. Logs shall be utilized to document all visual observation checks.

7. Emergency Procedures

Standard 7.A. Facility has emergency plans to address fire, disturbances, suicide prevention and response and medical emergencies. Staff are trained in the emergency plans. Emergency plans are developed in conjunction with other agencies that will respond in case of emergency.

8. Fire Safety

Standard 8.A. Facility has a fire alarm and automatic detection system that is tested at least quarterly.

Standard 8.B. Facility conforms to applicable federal, state and local fire safety codes. A qualified state or local fire safety official inspects facility annually.

Standard 8.C. Facility has a written evacuation plan which is reviewed and updated annually and shared with the local fire jurisdiction.

9. Food Service

Standard 9.A. A dietician reviews at the food service menu least annually.

Standard 9.B. The facility has the ability and procedures in place to provide special diets as ordered by medical or dental personnel or to meet requests based on religious practices.

10. Youth Activities

Standard 10.A. Operational plan for the facility provides for the following:

- A. Access to recreation is provided on a daily basis, subject to restriction based on the youth's behavior, which includes access to outside recreation as weather permits;
- B. Reasonable visitation privileges, that may be restricted based on the youth's behavior or violations of visitation rules, is provided on a scheduled basis. Contact visits with immediate family members is allowed unless violations of visitation rules have occurred in the past;
- C. Facility schedule allows for the opportunity of at least one-hour out of cell time per 24-hour period. This can be accomplished through visitation or recreation or other activities that occur outside the cell area.

State of South Dakota
Department of Corrections
Collocated Juvenile Detention Facility Standards Policy List

- 1. Sight and Sound Separation of Juveniles from Adult**
 - Policy and procedure for facility and program participation, which outline how, sight and sound separation is provided throughout the facility.
- 2. Staff Training**
 - Policy and procedure that covers training for staff who work with juveniles and training plan provides for adequate staff training on the following items:
 - A. sight and sound separation of juveniles from adults,
 - B. facility operations;
 - C. security procedures;
 - D. emergency procedures;
 - E. safety procedures.
 - F. supervision requirements;
 - G. working with adolescents – which shall include, at a minimum, youth development, adolescent physical and mental health and nonviolent crisis intervention;
 - H. suicide risks and precautions; and
 - I. use of force. (2.A.)
 - Policy and procedure for certification by facility administrator for all employees working with juveniles. (2.B.)
- 3. Medical, Dental, Mental Health Services**
 - Policy and procedure for:
 - A. Emergency 24-hour medical services (3.A.)
 - B. Routine medical services (3.A.)
 - C. Emergency 24-hour dental services (3.A.)
 - D. Routine dental services (3.A.)
 - E. Emergency 24-hour mental health services (3.A.)
 - F. Routine mental health services (3.A.)
 - Policy and procedure for intake screening which includes medical, dental, and mental health screening items to be completed by health trained staff or qualified health care professional. (3.B.)
 - Policy and procedure regarding a medical assessment or health appraisal within one week of admission by a qualified health care professional. (3.C.)
- 4. Access to Education**
 - Policy and procedure for providing education for youth detained more than 2 days, excluding holidays and weekends.
- 5. Environmental Conditions**
 - Policy on Environmental Conditions including:
 - A. Temperature of the facility is maintained within a range between 68°-80°;
 - B. Ventilation is appropriate;
 - C. Artificial lighting in residential and programming space is at least 20 foot candles;
 - D. Facility is clean and free from pests;
 - E. Facility is free from conditions that present safety or suicide hazards.
- 6. Supervision of Youth**
 - Policy and procedure for 30 minute direct observation checks for juveniles supervised in areas that use cameras.
 - Policy and procedure for 15 minute direct observation checks for juveniles supervised in areas that do not use cameras.
 - Policy and procedure for 5 minute direct observation checks for juveniles on suicide watch regardless if cameras are used or not.

7. Emergency Procedures

- Policy and procedure for fires and evacuation plan
- Policy and procedure for disturbances
- Policy and procedure for suicide prevention and response
- Policy and procedure for medical emergencies

8. Fire Safety

- Policy and procedure for fire alarm and automatic detection system testing at least quarterly (8.A.)
- Policy and procedure for conforming to any federal, state, and local fire safety codes (8.B.)
- Policy and procedure for annual safety official inspection (8.B.)
- Policy and procedure outlining an evacuation plan that is reviewed and updated annually and shared with the local fire jurisdiction (8.C.)

9. Food Service

- Policy and procedure for a dietician to review the food service menu least annually (9.A.)
- Policy and procedure in place to provide special diets as ordered by medical or dental personnel or to meet requests based on religious practices (9.B)

10. Youth Activities

- Policy and procedure that allows access to recreation is provided on a daily basis, subject to restriction based on the youth's behavior, which includes access to outside recreation as weather permits (10.A.)
- Policy and procedure that allows Reasonable visitation privileges, that may be restricted based on the youth's behavior or violations of visitation rules, is provided on a scheduled basis (10.B.)
- Policy and procedure that allows contact visits with immediate family members is allowed unless violations of visitation rules have occurred in the past (10.B.)
- Policy and procedure that allows Facility schedule allows for the opportunity of at least one-hour out of cell time per 24-hour period. This can be accomplished through visitation or recreation or other activities that occur outside the cell area (10.C.)

