

South Dakota
Department of Corrections



Compliance Monitoring Manual:
Administrative Policies and Procedures
for the Custody of Juveniles in South
Dakota

Updated 2018

Table of Contents

| | |
|--|-----|
| Juvenile Justice Delinquency Prevention Act..... | 2 |
| Legislative Authority | 2 |
| Compliance Monitoring System..... | 3 |
| Monitoring Responsibility:..... | 3 |
| Responsible Entities | 3 |
| Juvenile Classification: | 3 |
| Monitoring Universe: | 3 |
| 1. Identification of the Monitoring Universe:..... | 4 |
| 2. Classification of the Monitoring Universe: | 4 |
| Inspection of Facilities: | 5 |
| Data Collection:..... | 5 |
| Deinstitutionalization of Status Offender Analysis:..... | 5 |
| Jail Removal Analysis: | 8 |
| Sight and Sound Separation Analysis:..... | 10 |
| Data Verification: | 10 |
| State Violation Procedures: | 10 |
| Reporting Requirements:..... | 100 |
| Barriers and Strategies:..... | 100 |
| Appendix A: Definition of Terms..... | 12 |
| Appendix B: Compliance Monitoring Timeline | 20 |
| Appendix C: Comparison of Federal and State Laws | 21 |
| Appendix D: South Dakota Collocated Standards..... | 22 |
| Appendix E: South Dakota Juvenile Holding Matrix..... | 26 |

Juvenile Justice Delinquency Prevention Act

The [Juvenile Justice and Delinquency Prevention Act](#) (JJJPA) 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 JJJPA funds, are required to comply with the requirements contained in the JJJPA. Since South Dakota is a recipient of the Formula Grants Program, staff throughout the juvenile justice system assists in complying with the requirements of the Act.

The JJJPA established following core requirements:

- **Deinstitutionalization of Status Offenders (DSO)**
Pursuant to [42 U.S.C. 5633\(a\)\(11\)](#), juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult shall not be placed in secure detention facilities or secure correctional facilities.
- **Removal of Juveniles from Adult Jails and Lockups (Jail Removal)**
Pursuant to [42 U.S.C. 5633\(a\)\(13\)](#), no juvenile shall be detained or confined in any jail or lockup for adults.
- **Sight and Sound Separation of Juveniles from Adult Offenders (Separation)**
Pursuant to [42 U.S.C. 5633\(a\)\(12\)](#), juveniles alleged to be or found to be delinquent, status offenders, and non-offenders will not be detained or confined in any institution in which they have contact with adult inmates.
- **Reduction of Disproportionate Minority Contact (DMC)**
Pursuant to [42 U.S.C. 5633\(a\)\(22\)](#), state plans shall address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system

For the purposes of this manual, only monitoring for the requirements of DSO, Jail Removal, and Separation will be explained. Information concerning compliance with the DMC requirement is covered in South Dakota's 3-Year Plan Formula Grants Program Application.

Legislative Authority

States are required under [42 U.S.C. 5633 \(a\)\(1\) and \(2\)](#) to designate an agency (referred to as the Designated State Agency, or DSA) and to provide satisfactory evidence that the DSA has authority, by legislation, if necessary, to administer the Title II Formula Grant Program, including monitoring for compliance with the DSO, separation, and jail removal requirements.

South Dakota codified law ([SDCL](#) 1-15-28) designates the South Dakota Department of Corrections as the DSA to supervise South Dakota's participation in the JJJPA. The Department of Corrections is responsible for implementing the state plan in a manner which will ensure compliance with Sections 223(a)(12),(13), and (14) of the Act. The law also reads that the Department of Corrections shall seek

necessary authority and take all necessary action as provided by law to enforce compliance with the JJDP.

[SDCL 24-11-16](#) supports the Department of Correction's authority to monitor facilities by requiring that jails must maintain records and make them available to the Department of Corrections for the purposes of monitoring compliance with the requirements of the JJDP.

Compliance Monitoring System

States participating in the JJDP Formula Grants Program must provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to ensure that the core protections are met pursuant to the monitoring and reporting requirement at 42 U.S.C. 5633(a)(14).

Monitoring Responsibility: The purpose of the South Dakota Compliance Monitoring System is to monitor juveniles within the juvenile justice system to ensure that the juveniles of the state are being held in appropriate placements according to 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 from adult offenders within institutions; and removal of juveniles from facilities intended to hold adult criminal offenders.

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 Formula Grant budget, subgrants, and all compliance monitoring strategies. Per [SDCL 1-15-27](#) through [1-15-31](#), the Department of Corrections is the agency responsible for the SD 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. The Department of Corrections must submit a written plan that provides for an adequate system of monitoring facilities to ensure that the core protections of the JJDP are met.

Juvenile Classification: The Department of Corrections monitors compliance with the requirements of the JJDP through applying the core requirements to the following three juvenile categories:

- Juvenile Delinquents - [South Dakota Law Chapter 26-8C](#)
- Status Offenders (Children in Need of Supervision) - [South Dakota State Law Chapter 26-8B](#)
- Abused and Neglected Children - [South Dakota State Law Chapter 26-8A](#)

Monitoring Universe: States under the JJDP must ensure that all state and local facilities that might detain or confine individuals pursuant to law enforcement or criminal or judicial authority, including jails, lockups, detention facilities, correctional facilities, and court-holding facilities are identified and reported as part of the monitoring universe.

In addition, other facilities in which juveniles might be detained or confined such as law enforcement administrative offices, or community-based facilities such as group homes; shelters; or other residential facilities that may detain or confine juveniles pursuant to a law enforcement or criminal or juvenile court

authority may also need to be included in the monitoring universe depending upon how the facility is classified.

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. 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 maintains a list for the licensed facilities approved by their department, including Group Care Centers”, which are part of the monitoring universe. Licensed residential treatment centers and intensive residential treatment centers are excluded from the monitoring universe as placement in these facilities is based on medical necessity (<http://sdlegislature.gov/rules/DisplayRule.aspx?Rule=67:16:47:04.04>).
 - In addition to these resources, the Department of Corrections Compliance Monitor is responsible for the approval for any collocated facility and monitors county and regional juvenile detention centers within the state.

The monitoring universe is reviewed and updated annually.

2. **Classification of the Monitoring Universe:** The Department of Corrections Formula Grants staff is responsible for the classification of all facilities in the state that may hold juveniles pursuant to public authority. Accurate classification ensures that the correct facilities are being monitored for compliance with the Act. Classification within the Monitoring Universe is as follows:
 - a. Facility Type
 - i. Secure Correctional Facilities
 - ii. Administrative Law Enforcement Office
 - iii. Adult Jails
 - iv. Adult Lockups
 - v. Juvenile Detention Centers
 - vi. Collocated Juvenile Detention Centers
 - vii. Group Care Centers
 - viii. Court Holding Facility
 - b. Offender Type
 - i. Adult and Juvenile
 - c. Residential or Non-residential

- d. Security Level
 - i. Secure and Non-Secure Facilities
- e. Placement Facility Type
 - i. Public and Private Facilities
- f. Rural Removal Exception Jails

Definitions for each facility type are located in Appendix A.

Department of Corrections staff conducts a survey of facilities every four years to ensure that all facilities are accurately identified and classified in the universe.

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, and lockups must have periodic, on-site inspections to determine compliance with the core protections. All other facilities and offices will be spot checked or visited as needed to ensure that their classification is accurate and that there are no secure holding characteristics within the facilities or offices. The inspection must include:

1. A review of the physical accommodations to determine whether it is a secure or non-secure facility and whether adequate sight and sound separation between juvenile and adult offenders exists if applicable.
2. A review of the record keeping system to determine whether sufficient data is maintained to determine compliance with DSO, jail removal, and separation.
3. Collocated facilities will have an in-depth review of records and policies to ensure adherence to South Dakota Collocated Standards.

Data Collection: As part of an adequate system of monitoring facilities, the Department of Corrections Formula Grant staff is responsible for the data collection from 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. Data will be submitted from jails and detention centers at a minimum on a quarterly basis if youth were held and annually if no youth were held. Department of Corrections Formula Grant staff is responsible for analyzing all data collected from facilities to determine compliance with the DSO, jail removal, and separation requirements. In most cases, facilities provide compliance data from their data systems via an electronic log with specified fields.

Deinstitutionalization of Status Offender Analysis: The following methods are utilized to identify DSO violations:

1. Identify all juvenile admissions for the reporting period.
2. Remove all non-secure holds.
3. Remove all delinquent admissions.
4. Identify any Department of Corrections adjudicated Children in Need of Supervision that have a history of delinquent offenses documented in the Comprehensive Offender Management System (COMS) under their current commitment.

5. Conduct verification with the Unified Judicial System (UJS) Odyssey Data System to identify and verify juvenile status (accused or adjudicated), offense type, and placement records.
6. Contact facilities for additional information regarding specific admissions.
7. Remove all youth held in accordance with federally approved exceptions.
 - a. *24-Hour Exception*
 - i. The JJDP Act provides that status offenders, non-offenders, 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.
 - b. *Valid Court Order Exception*
 - i. 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 has 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.

[SDCL 26-8B-3](#) explains how a valid court order must be employed in order for South Dakota to take advantage of the Valid Court Order Exception. If the requirements are not met under federal law the juvenile must be counted as a violation of the DSO requirement.

The UJS Odyssey Data System is used to verify accurate use of the Valid Court Order exception.

c. Interstate Compact on Juveniles Exception

- i. Pursuant to the DSO requirement at [42 U.S.C. 5633\(a\)\(11\)\(A\)\(iii\)](#), status offenders may be held in accordance with the Interstate Compact on Juveniles, as enacted by the state. Juveniles held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirements in total. States must verify that all status offenders subject to an out-of-state placement were held pursuant to the Interstate Compact on Juveniles. Where the interstate placement of status offenders was not in accordance with the Interstate Compact on Juveniles, the placement must be reported as an instance of non-compliance by the state in which the juvenile is placed.

d. Out-of-State Runaways Exception

- i. Out-of-state runaways securely held pursuant to the Interstate Compact on Juveniles 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 may be securely held for up to 24 hours. Out-of-state runaways held beyond 24 hours must be reported as instances of non-compliance with the DSO requirement by the state in which the juvenile is being placed.

e. Juveniles Held in State or Local Facilities under Federal Authority

- i. Since the Formula Grant Program addresses juveniles in state custody within a state juvenile justice system, “placement,” for purposes of the DSO requirement refers to situations in which the state (or a local government) is acting as a sovereign (or a subdivision of a sovereign), rather than as an agent of the federal government. Thus, for example, when a state has contracted with a federal agency to hold a juvenile alien in a secure detention or secure correctional facility, pursuant to federal law, the state has not “placed” the juvenile in such a facility. Rather, the state is acting as an agent of the federal government, and the juvenile has been placed pursuant to federal authority. In this instance, although detained in a state facility, the juvenile is in federal custody, and the DSO requirement is inapplicable.

f. Youth Handgun Safety Exception

- i. The DSO requirement does not apply to juveniles charged with or found to have committed a violation of the Youth Handgun Safety Act (18 U.S.C. 922(x)), which prohibits possession of a handgun by a minor under the

age of 18, or a similar state law. Such juveniles may be placed in secure detention or secure correctional facilities without violating the DSO requirement.

Jail Removal Analysis: The following methods are utilized to identify jail removal violations:

1. Identify all juvenile admissions for the reporting period.
2. Remove all youth who were in a secure booking area only for booking purposes (photograph and fingerprinting) and under constant supervision until moved to a non-secure location for the purposes of interrogation, contacting parents, or arranging an alternative placement.
3. Contact facilities for additional information regarding specific admissions.
4. Remove all youth held in accordance with federally approved exceptions.
 - a. *Six-Hour Hold Exception*
 - i. A juvenile accused of a delinquent offense may be detained for up to 6 hours for the purposes of processing or release or while awaiting transfer to a juvenile facility. Any detention of juveniles should be limited to the absolute minimum time necessary to complete these purposes, not to exceed 6 hours.
 1. The 6-hour hold exception provides for a total of 6 hours that a delinquent offender may be detained in an adult jail or lockup during which the juvenile makes a court appearance. This does not allow for the detainment of a juvenile for up to 6 hours before and then up to an additional 6 hours after a court appearance.
 2. Once the juvenile has been detained or confined and the 6-hour period has begun, the facility cannot temporarily take the juvenile out of a custody status and begin the 6-hour time period again. For example, if a juvenile was detained or confined for 4 hours, then was taken to a non-secure interview room for 1 hour during which he was free to leave, then was detained or confined for 2 hours, the total time to report for the jail removal provision is 7 hours and would result in a violation with the jail removal requirement.
 - ii. Juveniles adjudicated as delinquents cannot be detained or confined for any length of time in adult jails or lockups as a disposition. Any detention in an adult jail or lockup of a juvenile adjudicated as a delinquent that is not related to a court appearance, for processing or release, or while awaiting transfer to a juvenile facility, is a violation with the jail removal requirement.
 - b. *Rural Exception*
 - i. 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.

- ii. 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:
 - 1. 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;
 - 2. 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;
 - 3. 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;
 - 4. A policy is in effect that requires individuals who work with both juveniles and adult inmates in collocated facilities to have been trained and certified to work with juveniles;
 - 5. The state must provide documentation that conditions listed above have been met for each facility. In addition, the state must have received prior approval from OJJDP to use the rural exception at each facility.
- iii. If all of the above conditions are met, a juvenile awaiting an initial court appearance may be detained for the following time periods:
 - 1. Up to 48 hours (excluding weekends and holidays), or
 - 2. 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
 - 3. 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
 - i. 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.

Sight and Sound Separation Analysis: The following methods are utilized to identify sight and sound separation violations:

1. Any juvenile held in a facility that has not been approved as sight and sound separated would constitute a violation.
2. Any reports submitted as sustained sight and sound violations would constitute a violation.

Data Verification: Department of Corrections Formula Grant staff verifies data submissions through the previously described analysis steps which include verification through the Unified Judicial System and Department of Corrections data systems. Prior to facility inspections, staff will review the current records received from the facility as well as those that were reported as violations in current and previous compliance monitoring reporting periods. During the inspection process, staff will review data record systems and verify that the reported data was accurate.

State Violation Procedures: South Dakota Department of Corrections Formula Grant staff address violations and concerns associated with holding juveniles in accordance with federal requirements through the following steps:

1. Investigate and gather information regarding the potential violation;
2. Upon confirmation of the violation, communicate with the facility administrator the results of the investigation and any corrective action needed to address the occurrence via a letter.
3. If the facility continues to violate, a letter outlining the instances of violations will be sent to the presiding judge of the circuit where the violations are occurring seeking assistance with compliance.
4. If compliance is not established through communication with the presiding judge, staff will seek the assistance of the Department of Corrections attorney and send a letter to the County States Attorney the State Court Administrator explaining the facts of the violation and asking for a response that indicates agreement that the violation occurred and the actions to be taken to ensure a pattern is not established going forward.
5. If the facility continues to violate after the aforementioned steps, a letter will be sent to the Governor seeking permission for the Attorney General to be contacted for an investigation into the violation.

The Department of Corrections Formula Grants staff is available to provide resources and technical assistance to the facility to ensure compliance with federal requirements at any step of the violation process.

Reporting Requirements: The South Dakota Compliance Monitor is responsible for annually submitting compliance materials, including data from 100% of facilities required to report data, for OJJDP to determine South Dakota's compliance with the core requirements through the Office of Juvenile Justice and Delinquency Prevention's Compliance Reporting System by outlined due dates. The Compliance Monitor will also assist with the annual state plan for the Title II Formula Grants Program application which includes an annual compliance monitoring plan.

Barriers and Strategies: South Dakota Formula Grant staff looks for and identifies barriers associated with maintaining compliance with the JJDP through the compliance monitoring processes. Each identified barrier below has identified strategies that are practiced in an attempt to mitigate any potential problems caused by the barrier.

Lack of a single data system for compliance data is a barrier due to the different software systems law enforcement agencies utilize. South Dakota Formula Grant staff has taken steps to alleviate this barrier by reaching out to facilities to assist them with automatic data submissions via their respective data management systems. Staff also has access to the Unified Judicial System's data system which assists in collecting documentation that local agencies may not have readily available for submission to the Department of Corrections.

Many counties in the state lack the financial resources to adequately address juvenile justice issues. Formula Grant staff offer fiscal assistance in the form of the County Reimbursement Program which utilizes Formula Grant funds to support law enforcement agencies in their efforts to transport and hold youth in appropriate facilities as well as supporting options for alternatives to detention for youth.

The lack of consistent education for juvenile justice professionals to ensure that they understand the differences between adult and juvenile offenders and how to supervise them in their facilities is also a barrier. To address this barrier, Formula Grant staff is available for training and technical assistance.

Appendix A: Definition of Terms

Abused or Neglected Child: Per [SDCL 26-8A-2](#), 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;
10. Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacturing of methamphetamines.

Accused Delinquent: A person charged with an offense that, if committed by an adult, would be a criminal offense.

Accused Status Offender: A person charged with an offense that would not be a criminal offense if committed by an adult.

Adjudicated Delinquent: A person found to have committed an offense that, if committed by an adult, would be a criminal offense.

Adjudicated Status Offender: A person found to have committed an offense that would not be a criminal offense if committed by an adult.

Adjudicatory Hearing: [SDCL 26-7A-1](#) defines an adjudicatory hearing as 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.

Administrative Law Enforcement Office: Administrative law enforcement offices are termed "non-secure law enforcement facilities" and include police administrative offices that are administered by a law enforcement entity but do not have construction fixtures designed to

physically restrict the movements and activities of individuals held in lawful custody. Because non-secure law enforcement facilities do not meet the statutory definition of secure detention or corrections facilities and do not meet the statutory definition of a jail or lockup for adults, the DSO and jail removal requirements do not apply. The detention of one or more juveniles in a non-secure law enforcement facility such that they had sight or sound contact with an adult inmate would result in instances of noncompliance with the separation requirement.

Non-secure facilities that could detain or confine juveniles pursuant to law enforcement or juvenile court authority must be included in the monitoring universe and periodically spot-checked, both to verify the facility's continued non-secure status and to assess the potential for instances of noncompliance with the separation requirement.

Adult: [SDCL 26-7A-1](#) defines an adult as 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: [SDCL 24-11-1](#) defines a jail as 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 haled as witnesses or committed for contempt's, 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 person sin such jails.

Adult Lockup: [28 CFR 31.304\(n\)](#) defines an adult lockup as similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature that does not hold persons after they have been formally charged.

Advisory Hearings: [SDCL 26-7A-1](#) defines an advisory hearing as 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 a child. An alternative to the Parens Patriae Doctrine.

Child: [SDCL 26-7A-1](#) defines a child as 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 (CHINS): [SDCL 26-8B-2](#) defines a child in need of supervision as:

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 34-36-2(2), or petty offenses;
5. Any child who has violated § 35-9-2 or 32-23-21
6. 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.

See Status Offender for federal definition.

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: The [JJDP](#) defines a collocated facility as 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: [SDCL 26-7A-1](#) defines commit as to transfer custody of a person.

Contact: [\(28 CFR 31.303\(d\)\)](#) defines contact as 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: [SDCL 26-7A-1](#) defines court or juvenile court as 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: [SDCL 26-7A-1](#) defines a custodian as 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: [\(28 CFR 31.304\(g\)\)](#) defines criminal-type offender as 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 no offender pursuant to the provisions of the law or of a judicial order or decree.

Deinstitutionalization of Status Offenders (DSO): As amended by the [JJDP](#) of 2002, the DSO requirement reads as follows: “juveniles who are charged with or have committed an offense that would not be criminal if committed by an adult – excluding juveniles who are charged with or who have committed a violation of section [922\(x\)\(2\) of title 18, United States Code](#), or of a similar state law; juveniles who are charged with or who have committed a violation of a valid court order; and juveniles who are held in accordance with the [Interstate Compact on Juveniles](#) as enacted by the State – shall not be placed in secure detention facilities or secure correctional facilities.” In addition, the 2002 Act states that “juveniles who are not charged with any offense and who are aliens or alleged to be dependent, neglected, or abused shall not be placed in secure detention facilities or secure correctional facilities.” DSO is one of the core requirements of the JJDP in which a state could be found out of compliance with.

Delinquent Child: [SDCL 26-8C-2](#) defines delinquent child as 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.

Detention: [SDCL 26-7A-1](#) defines detention as the temporary custody of a child in secured physically restricting facilities for children, sight and sound separated from adult prisoners.

Detention Facility: [SDCL 26-7A-1](#) defines detention facility as a secured, physically-restricting facility designated, 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: [SDCL 26-7A-1](#) defines a dispositional hearing as a hearing after adjudication at which the court makes an interim or final decision in the case.

Facility: [\(28 CFR 31.304\(c\)\)](#) defines facility as a place, an institution, a building or part thereof, set of building 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.

Group Care Center: Non-secure group care centers are community-based residential facilities in which juveniles may be placed pursuant to law enforcement or judicial authority. Because non-secure community-based facilities do not meet the definition of secure detention or correctional facilities, do not house adult inmates, and are not jails or lockups for adults, the core requirements do not apply. Non-secure, community-based facilities are, therefore, exempt for the purpose of reporting data for compliance with the DSO, separation, and jail removal requirements.

Guardian: [SDCL 29A-5-102](#) defines guardian as 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: [SDCL 26-7A-1](#) defines an intake officer as 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.

Jail Removal: The [JJDP A](#) reads that "no juvenile shall be detained or confined in any jail or lockup for adults." Jail Removal is one of the core requirements of the JJDP A in which a state could be found out of compliance with.

Juvenile Offender: [\(28 CFR 31.304\(f\)\)](#) defines juvenile offender as 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: [SDCL 26-7A-1](#) defines a minor as a person who has not reached his or her eighteenth birthday.

Noncompliance with Core Requirements: Each state received 20 percent of its total fiscal year allocation for participating in the Title II Formula Grants Program of the JJDP A and an additional 20 percent for each of the four core requirements with which they have demonstrated compliance. Therefore, 20 percent of the Title II Formula Grants Program award is removed for each core requirement for which a state is out of compliance with.

Non-Offender: [\(28 CFR 31.304\(i\)\)](#) defines non-offender as a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile.

Non-Residential: A facility that is not designed for offenders to live in.

Non-Secure Custody: [The November 2, 1988, Federal Register announcement, Policy Guidance for Non-secure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy](#) states that the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

1. The area(s) where the juvenile is held is an unlocked multipurpose area, such 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 no secure 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.
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 no secure custody.

In addition to a juvenile placed in the following situations would be considered in a non-secure 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 no secure 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 no secure 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 JJDPA applies to secure detention facilities and secure correctional facilities, so a juvenile placed in a secure police car for transportation would be in a non-secure status.
- A juvenile placed in a no secure runaway shelter, but prevented from leaving due to staff restricting access to exits: A facility may be no secure if physical restriction of movement or activity is provided solely through facility staff.

Parents: [SDCL 26-7A-1](#) defines parents as the biological or adoptive parents of a child, including both 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.

Private Facilities: Facilities operated by private nonprofit or for-profit corporations or organizations in which the employees working daily in the facilities and directly with the residents are employees of the private corporation or organization.

Public Facilities: Facilities operated by state or local government agencies in which the employees working daily in the facilities and directly with the residents are state or local government employees.

Residential: A facility that is designed for offenders to live in.

Rural Removal Exception Jails: Jails that have been approved for the 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).

Secure Custody: [\(28 CFR 31.304\(b\)\)](#) defines 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 Detention Facility: The [JJDP](#) defines secure detention facility as any public or private residential facility which includes construction fixtures designated to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.

Secure Correctional Facility: The [JJDP](#) defines secure correctional facility as any public or private residential facility which includes construction fixtures designated to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.

Shelter: [SDCL 26-7A-1](#) defines a shelter as a physically-unrestricting home or facility for temporary care of a child.

Sight and Sound Separation: The [JJDP](#) of 2002, as amended, provides that “juveniles alleged to be or found to be delinquent,” as well as status offenders and nonoffenders, “will not be detained or confined in any institution in which they have contact with adult inmates.” When a juvenile is placed in an adult jail, lockup, or collocated facility, access to sight or sound contact with an adult inmate is strictly prohibited under the JJDP. This provision seeks to prevent juveniles from threats, intimidation, or other forms of psychological or mental abuse. Sight and sound separation is one of the core requirements of the JJDP in which a state could be found out of compliance with.

Status Offender: [\(28 CFR 31.304\(h\)\)](#) defines status offender as 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.
- Runaway.

- Underage possession and/or consumption of tobacco products.
- Underage alcohol offenses. These offenses are considered status offenses, even though state or local law may consider them delinquent offenses.

Temporary Custody: [SDCL 26-7A-1](#) defines temporary custody as the physical and legal control of a child prior to final disposition.

Temporary Custody Hearing: [SDCL 26-7A-18](#) defines a temporary custody hearing as the hearing at which the court shall consider the evidence of the need for continued temporary custody of the child in keeping with the best interests of the child.

Transfer: Taking a case out of juvenile court and placing it in adult court or taking a case 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 B: Compliance Monitoring Timeline

The following time table delineates activities associated with South Dakota's Compliance Monitoring System.

Monthly Activities

- Data collection from collocated facilities, regional juvenile detention centers, jails, and lockups. (Data submitted from each location to the Department of Corrections)

Quarterly Activities

- Analyze collected data. (Compliance Monitor, Juvenile Justice Specialist, and Compliance Intern, if available)
- Reach out to facilities for follow-up associated with data submissions. (Compliance Monitor)
- Present a summary of data submitted and analyzed to the Council of Juvenile Services. (Compliance Monitor and/or Juvenile Justice Specialist)

Annual Activities

- Compile and submit compliance monitoring report to OJJDP. (Compliance Monitor and Juvenile Justice Specialist)
- Distribute the Council of Juvenile Services' Annual Report to law enforcement entities and juvenile facilities. (Compliance Monitor and Juvenile Justice Specialist)
- Visit and inspect all collocated facilities. (Compliance Monitor and/or Juvenile Justice Specialist)
- Visit and inspect a minimum 1/3 of adult jails, lockups, and regional juvenile detention centers. (Compliance Monitor and/or Juvenile Justice Specialist)
 - NOTE: More than the minimum 1/3 may be visited due to a request for a visit from the facility, a recommendation from the Council of Juvenile Services or DOC Administration, or if their submitted data requires on-site data verification or clarification prior to their regularly scheduled visit in the 3-year rotation.
- Review compliance monitoring universe and update as needed.

Targeted Activities

- Conduct a survey of facilities in the monitoring universe to ensure accuracy of all information associated with the facility in the universe. (Compliance Monitor, Juvenile Justice Specialist, and Compliance Intern, if available)

Ongoing Activities

- Correspond with facilities within the monitoring universe as needed or requested. (Compliance Monitor and/or Juvenile Justice Specialist)
- Look for enhancements to monitoring procedures, tools, and information sharing. (Director of Grants and Research, Compliance Monitor, and Juvenile Justice Specialist)

Appendix C: Comparison of Federal and State Laws

The following table provides a comparison of Federal standards under the JJDPa with South Dakota State Law as it relates to the placement or detention of juveniles.

| Federal JJDPa | South Dakota Codified Law |
|--|--|
| Jail Removal | |
| Prohibits use of adult jails and lock-ups for status offenders, non-offenders, civil-type juvenile offenders or alien juveniles. | SDCL 26-7A-26 : 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. |
| Prohibits use of adult jails and lock-ups for accused delinquent offenders beyond a 6-hour period (rural exception for up to 48 hours, if State has an enforceable law or court rule requiring a court hearing within 48 hours, excluding weekends and holidays) [223(a)(13)] Adjudicated juveniles are prohibited from being detained or confined in adult jails and lock-ups [223(a)(13)] | SDCL 26-7A-26 : 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. |
| Separation | |
| When juveniles are detained or confined in adult facilities there must be sight and sound separation from adults [223(a)(12)(A)] | SDCL 26-7A-26 : 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. |
| DSO | |
| Prohibits the use of juvenile detention or correction facilities for status offenders and non-offenders, but provides for an exception of 24 hours for processing accused status offenders (excluding weekends and holidays). The 24-hour exception does not apply to non-offenders. [223(a)(11)(A)] | SDCL 26-8B-3 : 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. |

Appendix D: South Dakota Collocated Standards

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

Facility provides written notice that they wish to be approved as a collocated juvenile detention facility.

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 checked during site visits.)

The Department will review the materials, request any needed clarifications or supplemental material and schedule a site visit.

The Department will conduct a site visit and facility review.

Based on the materials submitted and the facility review, the Department will issue an approval or a corrective action plan.

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.

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 works with juveniles and training plan provides for adequate staff training on the following items:

- sight and sound separation of juveniles from adults,
- facility operations;
- security procedures;
- emergency procedures;
- safety procedures;
- supervision requirements;
- working with adolescents – which shall include, at a minimum, youth development, adolescent physical and mental health and nonviolent crisis intervention;
- suicide risks and precautions; and
- 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, Physician's 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, Physician's 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:

- Temperature of the facility is maintained within a range between 68°-80°;
- Ventilation is appropriate;
- Artificial lighting in residential and programming space is at least 20 foot candles;
- Facility is clean and free from pests;
- 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:

- 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;
- 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;
- 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.

Appendix E: South Dakota Juvenile Holding Matrix

| Updated April 2017 | Abuse & Neglect | Juvenile Court | | | | | |
|---|---------------------------|---|---------------------------|--|--|--|---|
| | | Accused CHINS | Adjudicated CHINS | Accused CHINS Probation Violator | Adjudicated CHINS Probation Violator | Apparent or Alleged Delinquent | Adjudicated Delinquent |
| Non-secure and Shelter Care Facilities | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions |
| A physically-unrestricting facility for temporary care of a child located in a non-secure section of a juvenile detention facility or a shelter care facility. | | | | | | | |
| Secure Juvenile Facilities (Collocated Facilities and Regional Detention Centers) | Secure Holding Prohibited | Secure hold limited to 24 hours prior to and 24 hours after an INITIAL court appearance (excluding weekends and holidays). | Secure Holding Prohibited | Juvenile must be interviewed by an appropriate agency within 24 hours of placement in secure custody. The court must receive an assessment from the public agency and the juvenile must have a cause hearing within 48 hours of placement in secure custody. Documentation must be kept on file. | No Holding Restrictions IF the violation was due to a delinquent act OR there is documentation showing due process was followed. Documentation must be kept on file. | No Holding Restrictions | No Holding Restrictions |
| A secured, physically- restricting facility designed, staffed, and operated for children or 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. | | | | | | | |
| Adult Jail or Lockup | Secure Holding Prohibited | Secure Holding Prohibited | Secure Holding Prohibited | Secure Holding Prohibited | Secure Holding Prohibited | Secure hold limited to 6 hours for purposes of identification, processing, interrogation, transfer, release to parents, or 6 hours prior to and 6 hours after court appearance if the child is separated from adult prisoners. | Secure hold limited 6 hours after a court appearance for the purpose of arranging transport or release. NO JUVENILES MAY BE HELD FOR THE PURPOSE OF DISPOSITION/ SERVING SENTENCE. |
| Secure cell whether or not the cell door is locked, detoxification tank whether or not the cell door is locked, room within secure perimeter, secure booking area when a non-secure booking area is available*, handcuffed to stationary object. *When a secure booking area is the only available booking area, juveniles are allowed in the booking area for booking purposes (photograph and fingerprinting) only as long as under constant supervision and then must be moved to a non-secure location for the purposes of interrogation, contacting parents, or arranging an alternative placement. | | | | | | | |
| Police Departments/Sheriff's Office | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions | No Holding Restrictions |
| Non-secure office, lobby, or multipurpose room where juvenile is: not physically secured to a stationary object, non-residential area, and under continuous supervision. | | | | | | | |

Page intentionally left blank.