

Policies and Procedures Manual for Monitoring Compliance With Core Requirements of the Formula Grants Program Authorized Under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act

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OFFICE OF
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TABLE OF CONTENTS

I. INTRODUCTION/BACKGROUND.....	1
A. Program Introduction.....	1
B. Purpose of the Annotated Manual.....	1
II. COMPLIANCE WITH THE CORE REQUIREMENTS.....	2
A. Deinstitutionalization of Status Offenders (DSO).....	2
B. Removal of Juveniles Prosecuted as Adults from Adult Facilities.....	5
C. Separation of Juveniles From Adult Inmates.....	7
D. Removal of Juveniles From Adult Jails and Lockups.....	11
III. ELEMENTS OF AN EFFECTIVE SYSTEM OF MONITORING.....	16
A. Summary of Elements.....	16
B. Compliance Monitoring Policies and Procedures.....	16
C. Monitoring Authority.....	17
D. Violation Procedures.....	18
E. Adherence to Federal Definitions.....	20
F. Identification of the Monitoring Universe.....	26
G. Classification of the Monitoring Universe.....	27
H. Inspection of Facilities.....	29
I. Compliance Data Collection and Verification.....	34
IV. COMPLIANCE MONITORING REPORTING REQUIREMENT.....	36
APPENDIX A – ONLINE RESOURCES.....	38
APPENDIX B - RECOMMENDATIONS FOR MARKETING THE JJDP ACT.....	39
APPENDIXES:.....	40

I. INTRODUCTION/BACKGROUND

A. Program Introduction

Title II, Part B, of the [Juvenile Justice and Delinquency Prevention Act](#) (“JJDP A” or the “Act”) sets out detailed requirements that a state must satisfy in order to be eligible to receive funding under the Act’s Formula Grants Program, including the submission of a state plan that satisfies the requirements set forth [at 34 U.S.C. § 11133\(a\)\(1\)-\(33\)](#). Under the Act, “[i]n accordance with regulations which the Administrator shall prescribe, such plan shall,” among other things—

...provide for an effective system of monitoring jails, lock-ups, detention facilities, and correctional facilities to ensure that the core requirements are met, and for annual reporting of the results of such monitoring to the Administrator[.] [34 U.S.C. § 11133\(a\)\(14\)](#)

B. Purpose of the Annotated Manual

The purpose of this manual is to address the core requirements found in [34 U.S.C. §§ 11133\(a\)\(11\), \(12\), and \(13\)](#). This manual, through its structure, shows how Puerto Rico demonstrates compliance with the core requirements.

The racial and ethnic disparities core requirement found at [34 U.S.C. § 11133\(a\)\(15\)](#) is not discussed in this document because states do not monitor individual facilities for compliance with racial and ethnic disparities requirements. All references made to the core requirements in this manual pertain to requirements found in [34 U.S.C. § 11133\(a\)\(11\), \(12\), and \(13\)](#).

II. COMPLIANCE WITH THE CORE REQUIREMENTS

This section describes the core requirements at [34 U.S.C. § 11133\(a\)\(11\), \(12\), and \(13\)](#) and is recommended for inclusion in states' compliance monitoring manuals, to assist state staff in understanding the core requirements.

In the following sub section, you will find direct statutory and regulatory references, followed by the comprehensive process on how Puerto Rico addresses the core requirement.

A. Deinstitutionalization of Status Offenders (DSO)

Pursuant to [34 U.S.C. § 11133\(a\)\(11\)\(A\)](#), juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult (status offenders), or juveniles who are not charged with any offense and are unauthorized immigrants or are alleged to be dependent, neglected or abused (non-offenders), shall not be placed in secure detention facilities or secure correctional facilities. Compliance with the DSO requirement has been achieved when a state can demonstrate that no such juveniles were placed in secure detention and correctional facilities, or when the state's DSO rate falls below the established threshold.

Puerto Rico Compliance with DSO

[Puerto Rico Minor's Act](#) classifies offenses as type I, II and III, the offenses are included and codified in the Puerto Rico Penal Code. Status Offenders or juveniles who are not charged with any offense and are unauthorized immigrants or are alleged to be dependent, neglected or abused (non-offenders) can not be placed in secure detention facility or correctional detention facility because these are not considered offenses by our state law.

Our compliance monitor (CM) provide training to DSO core requirement to the law enforcement. Also, our CM reviews holding logs from every applicable police department and court facility in the state to ensure that to juvenile is detained in violation with the JJRA.

Although the Island does not have Status Offenses Cases because the State Law clearly establishes what a fault is, the CM will always do the diligence of certifying that no facility due to inadvertence does not comply with the Core Requirement.

YOUTH HANDGUN SAFETY EXCEPTION – Under [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(I\)](#), 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)), or a similar state law, which prohibits a person younger than 18 from possessing a handgun. Such juveniles may be placed in secure detention or secure correctional facilities without resulting in an instance of noncompliance with the DSO requirements.

STATE’S PLAN TO USE EXCEPTION – Puerto Rico does not utilize this exception and there is no corresponding state charge.

VALID COURT ORDER EXCEPTION – The Valid Court Order (VCO) exception at [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(II\)](#) provides that juveniles found to have violated a valid court order issued for committing a status offense may be placed in a secure juvenile detention or correctional facility. A juvenile who has committed a violation of a court order that is not related to his status as a juvenile (i.e., an offense with which an adult may be charged, such as failure to appear) is neither a status offender nor nonoffender and the DSO requirement does not apply (see Section III.E. Adherence to Federal Definitions for the definition of “valid court order”).

To demonstrate compliance with the statutory requirements governing the VCO exception, states must have a process in place to verify whether court orders used to place status offenders in juvenile detention centers (including juveniles who violate valid court orders related to their status as a juvenile), meet the following requirements (as set forth at [34 U.S.C. § 11133\(a\)\(23\)](#)):

- a. An appropriate public agency shall be promptly notified that the status offender is held in custody for violating a valid court order.
- b. An authorized representative of that agency shall interview within 24 hours, in person, the status offender who is being held.
- c. Within 48 hours during which the status offender is held:
 - The agency representative shall submit an assessment to the court that issued the order regarding the immediate needs of the status offender.
 - The court shall conduct a hearing to determine whether 1) there is reasonable cause to believe that the status offender violated the order and (2) the appropriate placement of the status offender pending disposition of the alleged violation.

- If the court determines that the status offender should be placed in a secure detention facility or correctional facility for violating the court order,

(1) the court must issue a written order that:

- ✓ Identifies the valid court order that has been violated;
- ✓ Specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order;
- ✓ Includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile;
- ✓ Specifies the length of time, not to exceed 7 days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility; and
- ✓ May not be renewed or extended; and

(2) The court may not issue a second or subsequent order described [in the first bullet] relating to a status offender unless the status offender violates a valid court order after the date on which the court issued the first court order.

- d. There are procedures in place to ensure that any status offender held in a secure detention facility or correctional facility pursuant to a [valid] court order [described in this section] does not remain in custody longer than 7 days or the length of time authorized by the court, whichever is shorter.

STATE'S PLAN TO USE EXCEPTION – Puerto Rico does not utilize this exception and there is no corresponding state charge.

INTERSTATE COMPACT ON JUVENILES EXCEPTION – Pursuant to the DSO requirement at [34 U.S.C. § 11133\(a\)\(11\)\(A\)\(i\)\(III\)](#), status offenders may be held in accordance with the Interstate Compact on Juveniles, as the state has enacted it. States must verify that all status offenders subject to an out-of-state placement were held pursuant to the Compact. Where the interstate placement of status offenders was not in

accordance with the Compact, the state in which the juvenile is placed must report the placement as an instance of noncompliance.

STATE’S PLAN TO USE EXCEPTION – Puerto Rico is not part of the interstate compact on juveniles for this reason we do not utilize this exception

B. Removal of Juveniles Prosecuted as Adults from Adult Facilities¹

Under [Section 223\(a\)\(11\)\(B\)](#), on or after December 21, 2021, a juvenile who is charged as an adult cannot be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure adult facility, except as provided below.

A juvenile charged as an adult may be detained in an adult jail or lockup if one of the exceptions at [34 U.S.C. § 11133\(a\)\(13\)](#) applies (Six-Hour Exception, Rural Exception, Travel Conditions Exception, and Conditions of Safety Exception). See Section II.D. Removal of Juveniles From Adult Jails and Lockups.

In addition, a court may determine after a hearing, and in writing, that it is in the interest of justice to permit a juvenile to be detained in a jail or lockup for adults or have sight or sound contact with adult inmates in a secure facility. If the court makes an initial determination that it is in the interest of justice to detain a juvenile under those circumstances, the court must hold a hearing at least every 30 days (at least every 45 days in a rural jurisdiction) to review whether it is still in the interest of justice to continue to detain the juvenile in an adult jail or lockup or such that he had contact with adult inmates in a secure facility. In determining whether it is in the interest of justice to detain (or continue to detain) a juvenile, the court must consider:

1. the age of the juvenile;
2. the physical and mental maturity of the juvenile;
3. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;

¹ This section of the manual references a provision of the Act that was codified at 34 U.S.C. § 11133(a)(11)(B). OJJDP refers to the requirement described in that provision as the “Section 223(a)(11)(B)” requirement.

4. the nature and circumstances of the alleged offense;
5. the juvenile's history of prior delinquent acts;
6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
7. any other relevant factor(s)

The maximum amount of time that a juvenile charged as an adult may be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure facility is 180 days, unless the court determines, in writing, that there is good cause for such an extension, or the juvenile expressly waives this 180-day limit.

Puerto Rico Compliance with Section 223(a)(11)(B)

The [Puerto Rico Minors Act](#) (Act 88-1986, as amended; 34 L.P.R.A. §2204) as recently as June 22, 2022 specifically establishes the only cases in which the jurisdiction of the juvenile court can be waived. In Puerto Rico, persons at least 18 years old are considered adults for criminal prosecution. However, Article 4 of the [Puerto Rico Minors Act](#) precludes the Minors Court from intervening in cases where a minor at least 15 years old is charged of first-degree murder, with intent; is charged of crimes related to the same event where a first-degree murder occurs; or is charged of a crime after been previously tried as an adult and found guilty of a felony. In all the previously mentioned cases, the minor will be treated as an adult. Also, a prosecutor for minors may request the Minors Court to waive its jurisdiction in cases of minors of at least 14 years old but less than 18 years old charged of committing a serious fault (usually equivalent to felonies in adults) when it is in the best interests of the minor and the community (34 L.P.R.A. §2215).

The CM is the Point of Contact for the program and is in constant communication with the Administrative Judges of the Court Holding facilities. Also, communications are ongoing with the Staff of the Puerto Rico Department Corrections.

When the juvenile prosecutor understands that under the State Law this juvenile must be waived from juvenile court a hearing takes place where all of the parties involved including the social worker that is assigned to the minor and gives the Judge a full report on the social, mental and health conditions and any other factor that must be considered in order to make this determination in accordance with [Puerto Rico Minors Act](#).

In Puerto Rico there are very few or no instances of waived juveniles into adult court yearly. But if such instances do occur Judges are instructed to send these cases to the Juvenile Correctional Facility or to the *Juvenile and Adult 224 Correctional Facility*. Likewise, the Puerto Rico Department of Corrections has a Policy in place specifically the Num. 9151 *Inmate Classification Manual* that classifies the correctional population safeguarding juveniles. Juvenile and Adult 224 holds juveniles from 18 to 21 years old and complies with sight and sound separation with any adult inmates due to the Requirements of Prison Rape Elimination Act (PREA). During this compliance monitoring period FY 21 (October 1, 2020 to September 30, 2021) they were only two waived juveniles to Adult Court.

The CM visits secured facilities in the state to ensure that [Section 223\(a\)\(11\)\(B\)](#) is followed. As part of the routine procedure for each facility visit, our CM discussed the [Section 223\(a\)\(11\)\(B\)](#) requirement with the appropriate staff. Upon verification and validation any instance of juveniles be held in an adult correctional facility without interstate justice [Section 223\(a\)\(11\)\(B\)](#) hearings will now result in a new federal violation.

If there was an instance where the court finds that in the *interest of justice* [Section 223\(a\)\(11\)\(B\)](#) a juvenile must be sent to an adult jail a hearing must take place, written documentation regarding the process and the decision must consider the following criteria:

1. the juvenile's age;
2. the juvenile's physical and mental maturity;
3. the juvenile's present mental state;
4. the nature and circumstances of the alleged offense;
5. the juvenile's history of delinquency;
6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
7. any other relevant factor.

The judge may rule for the juvenile to remain in juvenile detention. Upon attaining eighteen years of age or upon conviction on the adult charges, the juvenile shall be transferred from juvenile correctional facility to the appropriate adult facility.

C. Separation of Juveniles From Adult Inmates

Pursuant to [34 U.S.C. § 11133\(a\)\(12\)](#), juveniles alleged to be or found to be delinquent, status offenders, and juveniles who are not charged with an offense and who are unauthorized immigrants or alleged to be dependent, neglected, or abused may not be detained or confined in any institution in which they have sight or sound contact with adult inmates.

In order to comply with the separation requirement, states must also have in effect a policy that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, to have been trained and certified to work with juveniles.

PUERTO RICO'S PLAN - Our compliance monitor (CM) provides technical training during site visit on the Separation Requirement as provided to [34 U.S.C. § 11103\(25\)](#). Accused or adjudicated delinquent offenders, status offenders, and non-offenders (including those who are alleged to be dependent, neglected, or abused), are not to have sight or sound contact with adult inmates. Sight or Sound Contact means any physical, clear visual, or verbal contact that is not brief and inadvertent. Also, our CM reviews holding logs from every applicable police department and court facility in the state to ensure that to juvenile is detained in violation with the JJRA.

Separation must be achieved architecturally or through policies and procedures in all secure areas of the facility, which include, but are not limited to admissions, sleeping, and shower and toilet areas. Brief and accidental contact between juveniles and inmate's adults in secure areas of the facility that are dedicated to use by juvenile offenders, and which are nonresidential would not require a facility or State to report a violation. Those areas include dining, recreational, educational, and vocational areas, health care, sally ports or other entry areas and passageways (hallways). Any contact in a dedicated juvenile area, including any residential area of a secure facility, between juveniles who are detained or confined and adult inmates would be a violation.

Puerto Rico statutes, such [General Order 600-633](#) and [Manual of Rules and Procedures of Bailiff's of the General Court of Justice \(Minor Matters\)](#), are in placed to protect youth. In addition, during the facility site visit the CM examines any area where juveniles may be held to determine if separation would be achieved. The CM enters any holding cell or areas to determine if the juvenile would have any contact with adult inmates, as provided by [34 U.S.C. § 11103\(26\)](#).

The [Puerto Rico Minors Act](#) (Act 88-1986, as amended; 34 L.P.R.A. §2204) as recently as June 22, 2022 specifically establishes the only cases in which the jurisdiction of the juvenile court can be waived. In Puerto Rico, persons at least 18 years old are considered adults for criminal prosecution. However, Article 4 of the [Puerto Rico Minors Act](#) precludes the Minors Court from intervening in cases where a minor at least 15 years old is charged of first-degree murder, with intent; is charged of crimes related to the same event where a first-degree murder occurs; or is charged of a crime after been previously tried as an adult and found guilty of a felony. In all the previously mentioned cases, the minor will be treated as an adult. Also, a prosecutor for minors may request the Minors Court to waive its jurisdiction in cases of minors of at least

14 years old but less than 18 years old charged of committing a serious fault (usually equivalent to felonies in adults) when it is in the best interests of the minor and the community (34 L.P.R.A. §2215).

Likewise, Regulation 7436 of the Puerto Rico Department of Correction and Rehabilitation establishes in a compulsory manner the continuous training of its employees and their responsibility to take them. The staff that work are trained to work with juveniles and adult inmates as required under the separation and jail removal core requirements at 34 U.S.C. 11133(a)(12) and (13).

JUVENILES WHO ARE TRANSFERRED, CERTIFIED, OR WAIVED TO CRIMINAL COURT – Juveniles who have been transferred, certified, or waived to criminal court, and are therefore charged as adults, may not be detained in an adult jail or lockup or have sight or sound contact with adult inmates in a secure facility, unless it is pursuant to one of the exceptions at [34 U.S.C. § 11133\(a\)\(13\)\(B\)](#).

However, a court may determine that it would be in the interest of justice to do so consistent with [34 U.S.C. § 11133\(a\)\(11\)\(B\)](#). See Section 223(a)(11)(B) above, which applies to juveniles charged as adults. If a juvenile who has been charged as an adult has been convicted and sentenced for the criminal offense, however, Section 223(a)(11)(B) no longer applies.

PUERTO RICO'S PLAN - The [Puerto Rico Minors Act](#) (Act 88-1986, as amended; 34 L.P.R.A. §2204) as recently as June 22, 2022 specifically establishes the only cases in which the jurisdiction of the juvenile court can be waived. In Puerto Rico, persons at least 18 years old are considered adults for criminal prosecution. However, Article 4 of the [Puerto Rico Minors Act](#) precludes the Minors Court from intervening in cases where a minor at least 15 years old is charged of first-degree murder, with intent; is charged of crimes related to the same event where a first-degree murder occurs; or is charged of a crime after been previously tried as an adult and found guilty of a felony. In all the previously mentioned cases, the minor will be treated as an adult. Also, a prosecutor for minors may request the Minors Court to waive its jurisdiction in cases of minors of at least 14 years old but less than 18 years old charged of committing a serious fault (usually equivalent to felonies in adults) when it is in the best interests of the minor and the community (34 L.P.R.A. §2215).

When the juvenile prosecutor or the Judge intends or in their judgement understands that under the State Law this juvenile must be waived from juvenile court a hearing must take place where all of the parties involved including the social worker that is assigned to the minor gives the Judge a full report on the social, mental and health conditions and any other factor that must be considered in order to make this determination. Since in Puerto Rico they almost no instances of waived juvenile court decisions or very few the Judges determine to send these types of cases to Puerto Rico to the Juvenile Adult 224 Correctional

Facility. This facility holds juveniles from 18 to 21 years old and complies with sight and sound separation with any adult inmates due to the Requirements of Prison Rape Elimination Act (PREA).

As stated, before the CM works closely with Court Holding facility Administrator and receives firsthand information if an exceptional case occurs that a minor has been waived to adult court. Also, Staff from Department of Correction will make available information on where the minor is being held. As part CM responsibility a site visit can occur and 30 days monitoring on the minor's case will be done.

JUVENILES WHO REACH THE AGE OF FULL CRIMINAL RESPONSIBILITY AFTER ARREST OR ADJUDICATION – Individuals who commit an offense while still a juvenile and who have reached the age of full criminal responsibility only after arrest or adjudication, but remain under juvenile court jurisdiction, are not adult inmates and need not be separated from juveniles until they have reached the state's maximum age of extended juvenile jurisdiction. By contrast, individuals who are under juvenile court jurisdiction and who subsequently commit a separate offense after reaching the age of full criminal responsibility, are adult inmates, who must not have sight or sound contact with juvenile detainees.

PUERTO RICO'S PLAN - Article 3(o) of the [Puerto Rico Minors Act](#) (Act 88-1986, as amended; 34 L.P.R.A. §2203) defines a minor as a "person that has not reach 18 years of age, or that after reaching 18 is process for a fault committed before reaching 18." Juvenile who have reached the age of full criminal responsibility after arrest or adjudication may continue to receive services within the Puerto Rico Juvenile Institution Bureau, subject to restriction including PREA requirement.

PROGRAMS IN WHICH JUVENILES HAVE SIGHT OR SOUND CONTACT WITH ADULT INMATES – Programs in which juveniles have sight or sound contact with adult inmates in an attempt to educate juveniles about life in prison and/or deter them from delinquent or criminal behavior (such as Scared Straight or shock incarceration programs) may result in instances of noncompliance with the separation (and possibly DSO and jail removal) requirements. Whether these programs result in instances of noncompliance will depend on the specific manner in which the program operates and the circumstances of the juveniles' participation in such a program.

Instances of noncompliance with the separation requirement may only occur if a juvenile's participation in such a program is pursuant to law enforcement or juvenile or criminal court authority. In addition, for violations to occur, the juvenile must not be free to leave or withdraw from participation, even if her/his parent/guardian has not consented to, or wishes to withdraw consent for, the juvenile's participation.

PUERTO RICO'S PLAN - In Puerto Rico, there are no correctional facilities which operate a Scared Straight or other shock incarceration programs in which juveniles have sight or sound contact with adult inmates.

D. Removal of Juveniles From Adult Jails and Lockups

Pursuant to [34 U.S.C. § 11133\(a\)\(13\)](#), no juvenile shall be detained or confined in any jail or lockup for adults, with exceptions described below. Juveniles who are accused of status offenses, juveniles who are not accused of any offense, and juveniles who have been adjudicated as delinquent may not be detained or confined for any length of time in an adult jail or lockup.

Four statutory exceptions (below) apply to the jail removal requirement, as long as juveniles accused of non- status offenses do not have sight or sound contact with adult inmates and the state has in effect a policy that requires individuals who work with both juveniles and adult inmates in colocated facilities to have been trained and certified to work with juveniles.

Puerto Rico's Compliance with the Removal of Juveniles from Jails or Lockups for Adults

Puerto Rico statutes, such as [General Order 600-633](#) and [Manual of Rules and Procedures of Bailiffs of the General Court of Justice \(Minor Matters\)](#), are in place to protect youth. In addition, during the facility site visit the CM collects monthly records of juvenile holdings from every law enforcement and court facility in the state. The holding logs used by every facility require entry of any juvenile held at the facility. The holding logs require the facility to submit information regarding the date and time of the holding, the charge, the time of release, and the age/gender/race of the juvenile, and whether the juvenile was detained or not.

SIX-HOUR EXCEPTION – The jail removal requirement at [34 U.S.C. § 11133\(a\)\(13\)\(A\)](#) allows the detention or confinement in an adult jail or lockup of juveniles accused of delinquent offenses (i.e., offenses that would be a criminal offense if committed by an adult), under the following circumstances:

- a. A juvenile accused of a delinquent offense may be detained for no more than 6 hours for the purposes of processing or release, while awaiting transfer to a juvenile facility, or in which period such juveniles make a court appearance.
- b. A juvenile who has been adjudicated as delinquent may not be detained in an adult jail or lockup, for any length of time, without resulting in an instance of noncompliance with the jail removal requirement.

STATE'S PLAN TO USE EXCEPTION - Juveniles *accused* of committing a delinquent offense may be detained or confined in a jail or lockup for adults, separate from adult inmates, for up to six (6) hours, for processing or release, while awaiting transfer to a juvenile facility, or in which period such juveniles make a court appearance. The six-hours is cumulative. Agencies must record the start and end times for when the juvenile is detained or confined. Neither non-offenders nor juveniles *adjudicated* delinquent may be detained or confined in a jail or lockup for adults (including adult court holding facilities), for any length of time, without resulting in an instance of noncompliance with the jail removal requirement. The state has in effect a policy that requires individuals who work with such juveniles and adult inmates to be trained and certified to work with juveniles.

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

The Six-Hour Rule DOES NOT APPLY when:

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

The CM upon review of the annual juvenile holding logs, any accused juvenile delinquent that is detained for six hours or less qualifies for the six-hour exception and is not reported as a violation of the jail removal requirement. Should the secure juvenile holding exceed six hours, this is reported as a violation to OJJDP. An adjudicated juvenile delinquent detained for any length of time is a violation of this core requirement.

With the Re-authorization of the JJDP 2018 the Jail Removal core requirement includes Court Holding facilities. These facilities are now classified as Adult Jails and Lookups and for this reason our CM is now monitoring them for Jail Removal requirement, and review holding logs from these facilities. Puerto Rico currently has 13 regions of Court Holding facilities and juveniles have access to specific floors when they come in for a hearing or any other process. It is important to state, that since 2020 the Juvenile Court

Holding Facilities are doing all their hearings in virtual format. The CM has encouraged the Staff to continue with this best practice, since it ideally prevents any violations with this core requirement.

RURAL EXCEPTION – The exception found at [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(I\)](#) provides that juveniles accused of non-status offenses may be detained or confined in jails or lockups for adults for as long as 48 hours (excluding Saturdays, Sundays, and legal holidays) while awaiting an initial court appearance, when the jail or lockup is outside a metropolitan statistical area (as defined by the Office of Management and Budget (OMB)), and the state has no existing acceptable alternative placement available.

OMB maintains a list of metropolitan statistical areas which it periodically updates through the posting of a bulletin on its website. OMB bulletins may be found [here](#). The relevant bulletin will be titled *OMB Bulletin, Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of Delineations of These Areas*, and the most recently issued update should be used. In order to determine whether a jurisdiction is outside a metropolitan statistical area, and is, therefore, rural, the state should use the list of “Metropolitan Statistical Areas” that provides the title of the metropolitan statistical area, the principal city or cities, and the counties included in that area.

STATE’S PLAN TO USE EXCEPTION - Puerto Rico utilizes the rural exception for the municipalities of Vieques and Culebra due to the following conditions and factors:



Vieques and Culebra are [island-municipalities](#) of [Puerto Rico](#). Both are located to the east of the Puerto Rican mainland between Puerto Rico and St. Thomas (USVI) and is separated from the southeast coast of Puerto Rico.

Vieques and Culebra belong to the Police and Judicial Area of Fajardo which is outside the metropolitan geographical area. When a juvenile is stopped by the suspicion of the commission of an offense, he must remain under custody all night and waits until the next day to be taken to the court of Fajardo.

This is the standard because the employees of the Law Enforcement must use the service of ferry to transport detained persons and the Puerto Rico Maritime Authority does not operate for 24-hour a day. Although an airport exists, it does not work 24 hours neither.

In Vieques and Culebra, juveniles are detained in the Police station Headquarters with sight and sound separation from adult detainees. The facility location and the distance to be traveled because there is no ground transportation, does not allow for court appearances within the 6 hours required by the Core Requirements.

Our compliance monitor (CM) provides technical training during site visit on the Jail Removal Requirement and exceptions provided to [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(I\)](#) no juvenile shall be detained or confined in any jail or lockup for adults, with exceptions described below. Juveniles who are accused of status offenses, juveniles who are not accused of any offense, and juveniles who have been adjudicated as delinquent may not be detained or confined for any length of time in an adult jail or lockup. Also, our CM reviews holding logs from every applicable police department and court facility in the state to ensure that to juvenile is detained in violation with the JJRA. Also, the state has in effect 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.

TRAVEL CONDITIONS EXCEPTION – Under [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(II\)](#), states may detain a juvenile accused of a delinquent offense in a jail or lockup for adults, if the facility is located where conditions of distance to be traveled or the lack of highway, road, or transportation does not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable.

STATE'S PLAN TO USE EXCEPTION – Puerto Rico utilizes the Travel Conditions Exception for the municipalities of Vieques and Culebra because they are separated islands from Puerto Rico mainland. It is applied in the same way as previously explained in the Rural Exception Section (juveniles are detained in the Police station Headquarters with sight and sound separation from adult detainees until the next day when they are transported via ferry to Puerto Rico mainland and taken to court in Fajardo).

Our compliance monitor (CM) provides technical training during site visit on the Jail Removal Requirement and exceptions provided to [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(I\)](#), no juvenile shall be detained or confined in any jail or lockup for adults, with exceptions described below. Juveniles who are accused of status offenses, juveniles who are not accused of any offense, and juveniles who have been adjudicated as delinquent may not be detained or confined for any length of time in an adult jail or lockup. Also, our CM reviews holding logs from every applicable police department and court facility in the state to ensure that to juvenile is detained in violation with the JJRA. Also, the state has in effect 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.

CONDITIONS OF SAFETY EXCEPTION – Under [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(III\)](#), if the jail or lockup for adults is located where conditions of safety exist (such as severely adverse, life- threatening weather conditions that do not allow for reasonably safe travel), a juvenile accused of a delinquent offense may be detained therein and his or her court appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

STATE’S PLAN TO USE EXCEPTION – Puerto Rico utilizes the Conditions of Safety Exception for the municipalities of Vieques and Culebra because they are separated islands from Puerto Rico mainland. It is applied in the same way as previously explained in the Rural Exception Section (juveniles are detained in the Police station Headquarters with sight and sound separation from adult detainees until the next day when they are transported via ferry to Puerto Rico mainland and taken to court in Fajardo).

Our compliance monitor (CM) provides technical training during site visit on the Jail Removal Requirement and exceptions provided to [34 U.S.C. § 11133\(a\)\(13\)\(B\)\(ii\)\(I\)](#), no juvenile shall be detained or confined in any jail or lockup for adults, with exceptions described below. Juveniles who are accused of status offenses, juveniles who are not accused of any offense, and juveniles who have been adjudicated as delinquent may not be detained or confined for any length of time in an adult jail or lockup. Also, our CM reviews holding logs from every applicable police department and court facility in the state to ensure that to juvenile is detained in violation with the JJRA. Also the state has in effect 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.

III. ELEMENTS OF AN EFFECTIVE SYSTEM OF MONITORING

A. Summary of Elements

States participating in the Formula Grants Program must provide for an effective system of monitoring jails, lockups, detention facilities, and correctional facilities to ensure that they meet the core requirements, pursuant to the monitoring and reporting requirement at [34 U.S.C. § 11133\(a\)\(14\)](#). The state’s monitoring system, if it is to comply with the statutory and regulatory monitoring requirements, must include all jails, lockups, secure detention facilities, and secure correctional facilities. There are eight elements of an effective system of monitoring. For each of the following elements, the state should include a description of its specific policies and procedures:

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

B. Compliance Monitoring Policies and Procedures

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)](#), one of the required elements of an effective system of monitoring is that states must describe their policies and procedures for monitoring for compliance with the core requirements.

The Compliance Monitor and Juvenile Justice Specialist shall review the Compliance Monitoring Manual annually and update it as needed. The manual shall also be reviewed for additional modifications after the issuance of any revised regulations or guidelines by the Office of Juvenile Justice and Delinquency Prevention.

Date of Last Update or Initial Plan Implementation: 7/31/2023

C. Monitoring Authority

States are required under [34 U.S.C. § 11133\(a\)\(1\) and \(2\)](#) to designate an agency (referred to as the Designated State Agency, or the DSA) and provide satisfactory evidence that the DSA has authority, by legislation, if necessary, to administer the Title II Formula Grants Program, including monitoring for compliance with the deinstitutionalization of status offenders (DSO), Section 223(a)(11)(B), separation, and jail removal requirements.

[The Governor's Executive Order, OE-2017-039](#) designates Office of Socioeconomic and Community Development (ODSEC, for its acronym in Spanish) as the DSA. This Executive Order provides:

1. The authority necessary to the DSA to develop and enforce standards, to inspect the facilities for compliance, to cite facilities for violations of the standards and to enforce sanctions when violations are not corrected.
2. Compliance Monitors are permitted to review records containing detention information, holding logs, and any other documents that would be useful to verify compliance with core requirements.
3. The monitoring authority allows the compliance monitor to require each facility to be inspected for purposes of classification, to keep specific juvenile admission and release records and allow the Compliance Monitor access to these records during the year.
4. The Compliance Monitors will make available during all onsite inspections a copy of the governor's Executive Order that defines the basis of authority for monitoring.

Puerto Rico's statues define the responsibility of agencies that may be holding juveniles securely with regard to the development and implementation of licensing requirements or other standards for operation. The Compliance Monitors will use the existing federal requirements as defined in the JJDP Act of 2002 (42 U.S.C 5633[Sec. 223]) as Amended by the Juvenile Justice Reform Act of 2018.

[The Governor's Executive Order, OE-2017-039](#), gives the Office of Socioeconomic and Community Development (ODSEC) the authority to monitor and inspect facilities and records when a juvenile is held securely.

Also, the DSA sends a letter of the Authority, to inform Agencies that Compliance Monitors will be visiting their facilities and document their authority. Also requesting an update of all of the facilities included as

part of monitoring universe. In addition, the Executive Director issued letters to Department of Correction, Department of Justice, Police Department, and the Courts Administration's Director to inform about Compliance Monitoring by certified mail.

In case of changes in governmental administration the Executive Director will issue new letters to all Agencies Heads subject to the Juvenile Justice System. He will also coordinate meetings with new Directors to seek compliance.

Date of Last Update or Initial Plan Implementation: 7/31/2023

D. Violation Procedures

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(iii\)](#), the state must specify how it receives, investigates, and reports complaints of instances of noncompliance with the DSO, Section 223(a)(1)(B), separation, and jail removal requirements.

Policies

[The Governor's Executive Order, OE-2017-039](#), gives the Office of Socioeconomic and Community Development (ODSEC) the authority to monitor and inspect facilities. ODSEC is responsible of receiving, investigating, and responding to reports of compliance violations. Also has the duty of inspecting secure and non-secure facilities and collect data on juveniles detained or confined in secure facilities such as jails and lockups through the state.

In addition, there are a series of administrative orders and guidelines, which provide a detailed explanation of the rules and procedures that govern the intervention with minors (Example: [General Order 600-633](#) of the Police Department; Rules of Conduct and Efficiency for Marshals and Assistant Marshals of the Commonwealth of Puerto Rico District Court), a compliance with core requirements.

Furthermore, during on-site visits, Compliance Monitors distribute the Manual Processing and Detention of Juveniles in Puerto Rico and Agenda for Admission of Juveniles. All facilities should have available this manual.

There are several mechanisms to report a violation and issue a report, including: reports issued by the Compliance Monitors, the facility itself can report a violation, interested citizens, Public Defender's Office, parents, or the agency with oversight authority. The Compliance Monitors is responsible for the compliance

violation investigation and follow up. Additionally, Compliance Monitors will provide a periodic report to the members of the SAG about violations, in order to discuss possible corrective actions to prevent future violations.

Procedures for Handling Violations

1. The Compliance Monitors will perform statewide monitoring.
2. The Compliance Monitors will be the primary agent to discover, report and investigate compliance violations throughout the state. Violations are typically found through a detailed review of holding cell logs forms. Facilities should submit to ODSEC every month the completed log forms for that period. The review may occur either onsite or when the facility mails the log forms to ODSEC.
3. If a violation of DSO, Section 223(a)(11)(B), Jail Removal or Separation is reported or discovered the Compliance Monitors will fully investigate. In many cases incorrect information is reported in the log forms and the entry may appear to be a violation. Upon further investigation it may be revealed that the times or charges were recorded incorrectly. All violations will be discussed with the facility administrator or contact to explain why they were and what remedial actions may be taken to prevent them.
4. The Compliance Monitors will complete a compliance violation report describing the violation. It will be mailed to the facility administrator or contact. A copy of this report is placed in the individual Facility File.
5. The Compliance Monitors will provide intensive follow up on site visits to facilities where compliance is a problem. Intensive follow up is defined as at least twice yearly to review juvenile holding cell logs and provide technical assistance so the facility may achieve compliance.
6. The Compliance Monitors will provide a periodic report to the members of the SAG (bi-monthly) about the violations that have been identified during that period. The members of the SAG should separate time of their meetings agenda to discuss possible corrective actions to prevent future violations.
7. Steps to follow on every violation include:
 - a. The violation will be recorded on the Monthly Summary of Juveniles Held.
 - b. The compliance violation form is filed in the individual Facility File.

- c. The Compliance Monitors will request the agency or facility to submit a written action plan to demonstrate compliance.
- d. The violations are then recorded for 6 years or longer in our program’s files.

Date of Last Update or Initial Plan Implementation: 7/31/2023

E. Adherence to Federal Definitions

SUMMARY OF ELEMENT	STATE’S PLAN TO ADDRESS ELEMENT
Definitions that states use for key juvenile and criminal justice terms sometimes differ from the “federal” definitions. The federal definitions, for purposes of compliance monitoring, are only those provided in the JJDP Act at 34 U.S.C. § 11103 the Formula Grants Program Regulation at 28 C.F.R. § 31.304 and An Overview of Statutory and Regulatory Requirements for Monitoring Facilities for Compliance With the Deinstitutionalization of Status Offenders, Separation, and Jail Removal Provisions of the Juvenile Justice and Delinquency Prevention Act.	When monitoring for compliance with the core requirements of the JJDP Act, Puerto Rico applies the federal definition of any term related to compliance monitoring where the state definitions of the term differ from the federal definition. Where there is a difference in the definitions, Puerto Rico acknowledges that the federal definition must, and will, be used.

SUMMARY OF ELEMENT	STATE’S PLAN TO ADDRESS ELEMENT
<i>Federally Defined Terms Relating to Compliance With the Formula Grants Program</i>	<i>Similar State Definitions, and How They Differ From the Federal Definition²</i>
ADULT INMATE 34 U.S.C. §11103 (26) – means an individual who has reached the age of full criminal responsibility under applicable state law and has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense, and does not include an	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (26) .

² Although it is not necessary that a state provide citations to local law, it is good practice particularly when during the course of monitoring, designated state agencies identify competing statutes that not only do not align but may even differ from definitions provided by the JJDP Act.

SUMMARY OF ELEMENT	STATE'S PLAN TO ADDRESS ELEMENT
<p>individual who (1) at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable state law; and (2) was committed to the care and custody or supervision, including post-placement or parole supervision, of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable state law.</p>	
<p>ASSESSMENT 34 U.S.C. 11103(38) – includes, at a minimum, an interview and review of available records and other pertinent information – (A) by an appropriately trained professional who is licensed or certified by the applicable state in the mental health, behavioral health, or substance abuse fields; and (B) which is designed to identify significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth’s confinement.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (38).</p>
<p>COLLOCATED FACILITIES 34 U.S.C. § 11103 (28) – means facilities that are located in the same building or are part of a related complex of buildings located on the same grounds.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (28).</p>
<p>CORE REQUIREMENTS 34 U.S.C. § 11103 (30) – means the requirements described at 34 U.S.C. § 11133(11), (12), (13), and (15).</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definitions for each of the Core Requirements at 34 U.S.C. § 11133(11), (12), (13), and (15), respectively.</p>
<p>CRIMINAL-TYPE OFFENDER 28 C.F.R. § 31.304(a) – means a juvenile offender who has been charged who or adjudicated for conduct which would, under</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical</p>

SUMMARY OF ELEMENT	STATE'S PLAN TO ADDRESS ELEMENT
the law of the jurisdiction in which the offense was committed, be a crime, if committed by an adult.	assistance, Puerto Rico uses the federal definition at 28 C.F.R. § 31.304(a) .
DETAIN OR CONFINED 28 C.F.R. § 31.304 (b) – means to hold, keep, or restrain a person such that he or she is not free to leave or that a reasonable person would believe that he is not free to leave. The exception is a juvenile that law enforcement holds solely to return him to his parent or guardian or pending his transfer to the custody of a child welfare or social service agency. In this case, the youth is not detained or confined within the meaning of this definition.	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 28 C.F.R. § 31.304(b) .
INSTITUTION Compliance Monitoring TA Tool means “a secure facility that law enforcement or a juvenile or criminal court authority uses to detain or confine juveniles or adults (1) accused of having committed a delinquent or criminal offense, (2) awaiting adjudication or trial for the delinquent or criminal offense, or (3) found to have committed the delinquent or criminal offense.”	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition of “Institution” from the Compliance Monitoring TA Tool .
JAIL OR LOCKUP FOR ADULTS 34 U.S.C. § 11103 (22) – means a locked facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adult inmates.	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (22) .
JUVENILE OFFENDER 28 C.F.R. § 31.304 (d) – means an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by state law (i.e., a criminal-type offender or a status offender).	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 28 C.F.R. § 31.304(d) .
MAXIMUM AGE OF EXTENDED JUVENILE COURT JURISDICTION Compliance Monitoring	For the purposes of compliance with the Formula Grants Program, as well as the development of

SUMMARY OF ELEMENT	STATE'S PLAN TO ADDRESS ELEMENT
<p>TA Tool by OJJDP – means the age above which a juvenile court may no longer exercise jurisdiction under state law.</p>	<p>Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition of “Maximum Age of Extended Juvenile Court Jurisdiction” from the Compliance Monitoring TA Tool.</p>
<p>MONITORING UNIVERSE Compliance Monitoring TA Tool – means all public and private facilities in which law enforcement or criminal or juvenile court authority detain juveniles and/or adult inmates.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition of “Monitoring Universe” from the Compliance Monitoring TA Tool.</p>
<p>NONOFFENDER 28 C.F.R. § 31.304 (i) – means a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 28 C.F.R. § 31.304(i).</p>
<p>RESIDENTIAL Compliance Monitoring TA Tool – means equipped with beds, cots, or other sleeping quarters and has the capacity to provide for overnight accommodations for juveniles or adults who are accused of committing or who have committed an offense.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition of “Residential” from the Compliance Monitoring TA Tool.</p>
<p>SECURE as defined under 28 C.F.R. § 31.304 (m) and used to define a detention or correctional facility – includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in custody, such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 28 C.F.R. § 31.304(m).</p>

SUMMARY OF ELEMENT	STATE'S PLAN TO ADDRESS ELEMENT
<p>SECURE CORRECTIONAL FACILITY 34 U.S.C. § 11103 (13) – means any public or private residential facility which—(1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (13).</p>
<p>SECURE DETENTION FACILITY 34 U.S.C. § 11103 (12) – means any public or private residential facility which— (1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (12).</p>
<p>SIGHT OR SOUND CONTACT 34 U.S.C. § 11103 (25) – means any physical, clear visual, or verbal contact that is not brief and inadvertent.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (25).</p>
<p>STATE 34 U.S.C. § 11103(7)– means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (7).</p>
<p>STATUS OFFENDER 34 U.S.C. § 11103(42) – means a juvenile who is charged with or has</p>	<p>For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical</p>

SUMMARY OF ELEMENT	STATE'S PLAN TO ADDRESS ELEMENT
committed an offense that would not be criminal if committed by an adult.	assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (42) .
TWENTY-FOUR HOURS Compliance Monitoring TA Tool – means a consecutive 24-hour period, exclusive of any hours on Saturdays, Sundays, public holidays, or days on which the courts in a jurisdiction otherwise are closed.	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition of “Twenty-Four Hours” from the Compliance Monitoring TA Tool .
VALID COURT ORDER 34 U.S.C. §11103(16) – means a court order that a juvenile court judge gives to a juvenile who was brought before the court and made subject to the order and who received, before the issuance of the order, the full due process rights that the U.S. Constitution guarantees to the juvenile.	For the purposes of compliance with the Formula Grants Program, as well as the development of Compliance Monitoring resources and technical assistance, Puerto Rico uses the federal definition at 34 U.S.C. § 11103 (16) .

Date of Last Update or Initial Plan Implementation: 7/31/2023

F. Identification of the Monitoring Universe

The reporting of instances of noncompliance with the core requirements is facility-based and therefore the “monitoring universe” includes all facilities within the state (public and private) that are jails and lockups for adults (including court holding facilities), secure detention facilities, and secure correctional facilities (including adult prisons), as listed at [34 U.S.C. § 11133\(a\)\(14\)](#). These are the facilities in which instances of noncompliance with the core requirements may occur. States must ensure that they identify and include all of these facilities as part of the monitoring universe.

Policy

The Compliance Monitors will maintain filing cabinets containing Compliance Monitoring universe information that will encompass listings of all facilities in the state. The Compliance Monitors will annually update this information and will occur by interviewing agency contacts and obtaining information from other sources then recorded for 6 years or longer in our program’s files.

Procedures

1. During September of each year, the Compliance Monitors will send a letter to the administrator or point of contact of the Police Bureau, the Department of Correction and Rehabilitation, the Office of Courts Administration and any other agency involved in the juvenile justice system in Puerto Rico, requesting updated identification information on their current facilities, planned facilities and contracts they have with private facilities.
2. The basic information will be recorded on a form called Identification of the Monitoring Universe Survey.
3. All facility information gathered will be included in updating the monitoring universe filing cabinet. It will be organized as follows: Each type of facility will have a separate section.
 - The Monitoring Universe Survey
 - The Monitoring Classification Master List
 - The List of facilities with contact information

4. The information contained within the monitoring universe is kept in a locked Juvenile Justice file Room and will be available during OJJDP audits.
5. The identification of the monitoring universe is an ongoing process. During onsite visits to each facility the Compliance Monitors should ask questions during interviews with the administrator or contact person regarding new construction, remodeling of current facilities and proposed constructions.

Date of Last Update or Initial Plan Implementation: 7/31/2023

G. Classification of the Monitoring Universe

States are required under [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(B\)](#) to classify each facility in the monitoring universe to specify whether it is a (1) a jail or lockup for adults ([34 U.S.C. § 11103\(22\)](#)); (2) secure detention facility ([34 U.S.C. § 11103\(12\)](#)); or (3) secure correctional facility ([34 U.S.C. § 11103\(13\)](#)).

Policy

The Compliance Monitors will annually classify and /or reclassify all facilities listed in the Monitoring Universe. During the process the monitors will determine which ones are considered as a secure detention, secure correctional, adult jails, or adult lockups as defined as follows:

- Secure Detention Facility | [34 U.S.C. § 11103 \(12\)](#) – means any public or private residential facility which— (1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense.
- Secure Correctional Facility | [34 U.S.C. § 11103 \(13\)](#) – means any public or private residential facility which—(1) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and (2) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense; and

Jail Or Lockup For Adults | [34 U.S.C. § 11103 \(22\)](#) – means a locked facility that a state, unit of local government, or any law enforcement authority uses to detain or confine adult inmates. For purposes of this policy, and per federal requirements, there will be three categories for classification of each facility:

1. Secure or non-secure;
2. It is a juvenile facility (used exclusively for juveniles), an adult facility or a facility used for juveniles and adults;
3. Residential or non-residential.

Please refer to Federal Definitions for the following terms that may be needed for classification purposes:

1. Secure
2. Adult Jail
3. Adult Lockup
4. Secure Detention Facility
5. Secure Correctional Facility
6. Private and public agency
7. Collocated facility
8. Court holding facility

Procedures

For the CM the classification of facilities is an on-going process. For newly identified, the CM verifies classification through an on-site inspection. When charges that may affect classification of an existing facility are reported, the CM will verify those changes and update the monitoring universe as needed.

1. All facilities listed in the monitoring universe must be classified annually.
2. Classification sometimes begins in the identification process.
3. Initial classification is verified during the inspection process.

4. If a facility is classified incorrectly, it must be reclassified after the on-site inspection. When an existing facility is reclassified it has to be noted on the file of the facility and updated in the list of the monitoring universe.
5. The Compliance Monitors will annually review state standards and new legislation for classification purposes.
6. The classification of facilities list should be part of the monitoring universe file.

Date of Last Update or Initial Plan Implementation: 7/31/2023

H. Inspection of Facilities

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(C\)](#), inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping.

Policy

Inspections are necessary to provide the protections required by the Act and to determine whether adequate data is maintained to determine compliance with the statutory core requirements. The inspection process includes a method for reporting compliance with DSO, Section 223(a)(11)(B), separation, and jail removal requirements for each facility inspected. The inspection process includes a method for reporting compliance with the Separation requirements for each facility inspected.

Each facility will have an individual file, located at the Compliance Monitors' office. This file will contain:

1. Compliance Monitoring Survey for Facilities
2. Sight and Sound Separation Inspection Checklist
3. Non-Secure Certification Form (if applicable)
4. Compliance Monitoring On-Site Summary Results
5. On site Visit Data

6. PPR-868 Juvenile Secure Detention Log
7. Compliance Violations Forms sent to the facility and other letters or communications mailed
8. Copy of the facility layout indicating areas where juveniles are held securely and non-securely

During each on-site inspection of the facilities the Compliance Monitors will make available:

- Manual for Processing and Detention of Juveniles in Puerto Rico
- Agenda for Admission of Juveniles
- Juvenile Secure Detention Log Form (PPR-868)
- JJDP Act
- Police General Order 600-633 (if applicable)
- Police Chief Memorandum SAIC-2-1-0197 (if applicable)
- ODSEC address and phone number

Process

The Compliance Monitors will annually inspect facilities to ensure an accurate assessment of each facility's classification and record keeping. The inspection will include:

1. A review of the physical accommodations to determine whether it is a secure or non-secure facility.
2. A walk-through of the facility as if the Compliance Monitors was a juvenile to determine the level of compliance with DSO, Section 223(a)(11)(B), separation, and jail removal.
3. A review of the record keeping system to determine whether sufficient data are maintained in order to comply with sections 223(a)(11), (11)(B), (12), and (13) of the JJDP Act.
4. An exit interview with the facility administrator or contact to share onsite findings and concerns.

The following chart can be used as a guidance as how often facilities should be monitored and what they are monitored for. But it is important to mention that Puerto Rico monitors facilities, including juvenile correctional facilities, juvenile detention centers, adult jails and adult lockups, also monitoring is conducted in court holding facilities.

Type of Facility Federal Definition	Inspection Rates
Adult Correctional Facility	They are classified as secure. Secure as defined under 28 C.F.R. § 31.304 (m) and used to define a detention or correctional facility – includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in 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. Public or Private. Adult only facilities. State law prohibits the sentencing of any juvenile not filed as an adult offender.
Juvenile Correctional Facilities	They are classified as secure. Secure as defined under 28 C.F.R. § 31.304 (m) and used to define a detention or correctional facility – includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in 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. Public or Private. Juveniles only. Inspected for DSO annually.

Juvenile Detention Center	They are classified as secure. Secure as defined under 28 C.F.R. § 31.304 (m) and used to define a detention or correctional facility – includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in 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. Public or Private. Juveniles only. Inspected for DSO annually.
Mental Health Facilities	They are classified as secure. Public or Private. Juveniles and adults.
Adult Jails and Adult Lockups	They are classified as secure. Residential or nonresidential. All are for juveniles and adult offenders. Secure facilities inspected at a desired rate of 33% annually with 100% within three years.
Juveniles Affairs Division (Category only for Puerto Rico compliance purposes)	Secure facility with a Non-secure Area. Public. Inspected annually, 100% of the facilities. Juveniles only.

Procedures

1. The Compliance Monitors will notify facility administrator or contact person the date and time of inspection. The Compliance Monitors will be responsible for maintaining records of when facilities were visited. This information will be included with the data obtained for that monitoring year and included in the Annual OJJDP Monitoring Report.
2. At all inspections a facility information form will be completed or updated and will be retained in the facility file.
3. The Compliance Monitors will determine how records are kept at the facility on juveniles detained or confine and verify that the records are accurate. OJJDP requires data verification that is unique to each facility; however, the Compliance Monitors is always able to verify data by reviewing log forms at the facility. Records should at a minimum include:
 - a. Name or ID number

- b. Date of birth/sex
 - c. Offense
 - d. Date and time of admission
 - e. Date and time of release
 - f. Name and relationship of person or facility to whom juvenile was released
4. At all inspections a DSO, Section 223(a)(11)(B), separation, and jail removal requirements checklist will be completed (see attached form to be retained in the facility file). Separation questions will be asked at all types of facilities, including those that only hold juveniles. Types of questions that may be asked include:
- a. Where are adult inmates, at all times in all areas, when juveniles are in the facility?
 - b. Are adult inmates used in the facility and if so for what?
 - c. Does an officer remain with the juvenile at all times?
 - d. What areas are dedicated for juvenile use?
 - e. How is the juvenile brought and processed into the facility?
5. Monitors should obtain a facility layout, examine, and become familiar with conditions of confinement, provide ideas or resources to address those concerns.
6. The Compliance Monitors will provide technical assistance to those facilities not in compliance with record keeping and violations. Facilities should be told that the Compliance Monitors are available to review proposed facility plans prior to construction to ensure that sight and sound will be complied with.
7. All facilities subject to inspections will also be subject to data collection and data verification, if juveniles are being detained or confined.

8. All adult jails and lockups that do not have secure holding capabilities and are not detaining juveniles securely will be classified as non-secure. The Law Enforcement Certification of Non-secure Classification form will be completed and retained in the facility file. In the case of the Puerto Rico these facilities will receive an inspection as needed that will be determined by the Compliance Monitor based on their assessment during the spot check to verify classification of the prior year. The Compliance Monitor is responsible for maintaining records of the facilities that were monitored if necessary, during the Compliance Monitoring year.

Date of Last Update or Initial Plan Implementation: 7/31/2023

I. Compliance Data Collection and Verification

Pursuant to [28 C.F.R. § 31.303\(f\)\(1\)\(i\)\(D\)](#) and [\(5\)](#), the state must collect and verify data from all adult jails, adult lockups, secure detention facilities, and secure correctional facilities for the 12-month federal fiscal year (FY) reporting period, to determine whether the facilities are in compliance with the applicable requirements of DSO, Section 223(a)(11)(B), separation, and jail removal. The federal fiscal year is October 1 to September 30. States that are unable to report data for 100% of facilities must report data for at least 85% of facilities within the state that are required to report.

Policy

The Compliance Monitors will be responsible for collecting and verifying data on every youth held in those facilities subject to inspections following OJJDP rules and regulations on data collection and verification. In the case of Puerto Rico, data collection and verification procedures include data of the entire Federal Fiscal year (12 months).

Procedures

1. All facilities classified as secure should send ODSEC the juvenile Secure Detention Logs monthly. The data provided by the facility must be verified on site.
2. The Juvenile Secure Detention Logs should only include those juveniles detained or confined. This Registration form will never replace the administrative holding cell logs. Both forms must be completed. The Compliance Monitors will compare the data remotely submitted to ODSEC with their administrative records to make sure they match.

3. The Juvenile Secure Detention Logs and the administrative holding cell logs should be totally completed. Logs with errors could result in violations if the information cannot be corroborated by another source.
4. Errors in the time of admission or release could result in a potential Jail Removal violation. If the information cannot be corroborated, the Compliance Monitors will presume the juvenile was detained or confined on secure detention for more than six hours.
5. If the offense information is not provided and cannot be corroborated by any other source, the Compliance Monitors will presume the juvenile was a non-offender.
6. The Compliance Monitors will make sure all facilities are sending to ODSEC the Juveniles Secure Detention Logs. Also, the monitors will verify they are correct and will keep them in the facility file. If any error or violations are detected, the Monitors will contact the facility to inquire.
7. The Compliance Monitors will evaluate each violation instance to make sure that is a real violation, this is also a training technique to identify violations.
8. Specific data should be collected on the following facilities:

On Juvenile Detention Centers:

- Adjudicated delinquent status offenders and non-offenders
- DSO

On Adult Jails and Adult Lockups:

- Status and non-offenders held for any length of time
- Separation violations
- Juveniles waived to adult court on criminal felony charges
- Accused juvenile criminal-type offenders held for more than six hours before an initial court appearance

- Juveniles waived or transferred to adult court
 - Documentation on the use of the rural exception (only use in Vieques and Culebra which are separate islands from Puerto Rico mainland)
 - Detained juveniles are transported via ferry, which does not operate 24-hour a day, for their court hearing (Please see Section D. Removal of Juveniles from Jails or Lockups for Adults, exceptions to Jail Removal)
9. The Compliance Monitors will retain the Juvenile Secure Detention Logs and they will be part of each Facility file to be kept at ODSEC's Juvenile Justice Program file room. This file room is a restricted area only for Juvenile Justice Program Staff and must be always under locked key. This way the files of each facility will be securely kept. The data collected and recorded will be used to prepare the Annual Compliance Monitoring Report.

Inspection and Data Collection and Verification Procedures for Juvenile Affairs Divisions

- Juvenile Affairs Divisions (JAD) must be inspected yearly.
- The inspection must include the regular procedures used when inspecting a Secure Facility. Compliance Monitors must inspect the non-secure area project on each facility. The inspection should include verification of the security system.
- All of the JAD's should sent to ODSEC the Non-secure Custody Log Form (PPR-872) monthly. The data provided by the facility must be verified on site.
- The Non-Secure Custody Log Form (PPR-872) should only include those juveniles held in custody in the non-secure areas.

Date of Last Update or Initial Plan Implementation: 7/31/2023

IV. COMPLIANCE MONITORING REPORTING REQUIREMENT

Under 28 C.F.R. § 31.303(f)(5), annual compliance monitoring reports must cover the previous federal fiscal year, except that the OJJDP Administrator may grant an extension of the reporting deadline, for good cause, upon a state's request.

COMPLIANCE DATA AND SUPPORTING DOCUMENTATION – Compliance data and supporting documentation is submitted annually through OJJDP’s [Compliance Reporting Tool](#).

Process

The CM will annually submit compliance data and supporting documentation for the previously fiscal year from October 1st through September 30th into OJJDP’s [Compliance Reporting Tool](#). Additional time may be requested for any inadvertent situation presenting good cause to OJJDP Administrator.

Procedures

1. All data collected for the OJJDP Annual Compliance Monitoring report will reflect that it has been collected from October 1st through September 30th.
2. In the event a facility will not report data the facility will be reported on the OJJDP Compliance Monitoring report and the Excel program will project the violations for that facility. As mentioned previously, by state statute all secure facilities are required to report data.
3. The Annual Compliance Monitor Report draft for OJJDP will be written by the Compliance Monitor and revised by the Juvenile Justice Specialist. The OJJDP Compliance Monitoring Report is located on their web site and should be completed electronically. Approved Compliance Monitor Report draft will be available by February 28 and become the final report that will be submitted when OJJDP establishes the yearly deadline.

APPENDIX A – ONLINE RESOURCES

Title	Description	
Office of Juvenile Justice and Delinquency Prevention (OJJDP) Webpage	A component of the Office of Justice Programs within the U.S. Department of Justice , OJJDP works to prevent and respond to youth delinquency and protect children. Through its divisions, OJJDP sponsors research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming.	Link
Authorizing Legislation	This OJJDP webpage reviews the authorizing Legislation that Congress enacted in regards to the Juvenile Justice and Delinquency Prevention (JJDP) Act (Pub. L. No. 93-415, 34 U.S.C. § 11101 et seq.) in 1974. This landmark legislation established OJJDP to support local and state efforts to prevent delinquency and improve the juvenile justice system.	Link
Juvenile Justice and Delinquency Prevention Act	This is the text of the Juvenile Justice and Delinquency Prevention Act of 1974 as amended.	Link
Redline Version Juvenile Justice and Delinquency Prevention Act as Amended by the Juvenile Justice Reform Act of 2018	This version of the Juvenile Justice and Delinquency Prevention Act (JJDP), includes the amendments made by the Juvenile Justice Reform Act of 2018 (in red).	Link
OJJDP Core Requirements Webpage	The information on this page assists states in monitoring and achieving compliance with the core requirements of the Formula Grants Program, including information on the background of the JJDP, supporting regulations, state compliance with JJDP core requirements, reporting requirements, guidance and resources, and staff contact information.	Link
OJJDP Fact Sheet: Key Amendments to the Juvenile Justice and Delinquency Prevention	This fact sheet describes several significant amendments to the JJDP made by the JJRA.	Link

Act Made by the Juvenile Justice Reform Act of 2018		
National Archives: Code of Federal Regulations for Part 31 – OJJDP Grant Programs	This is the existing regulation implementing the Formula Grants Program authorized under the JJDPA.	Link

APPENDIXES:

Appendix 1	Compliance Monitoring Survey for Facilities
Appendix 2	Sight and Sound Separation Checklist
Appendix 3	Non Secure Certification Form
Appendix 4	Compliance On-site Summary
Appendix 5	On-site Visit Data
Appendix 6	Juvenile Secure Detention Log
Appendix 7	Correctional Facilities
Appendix 8	Cell Log Form
Appendix 9	Non Secure Custody Log Form
Appendix 10	Request for Data Correction
Appendix 11	Compliance Violation Report Sample
Appendix 12	Example of Facility List with Contact Information
Appendix 13	Monitoring Universe Update Request
Appendix 14	Classification Master Lists