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Carol Adams, Secretary

## MEMORANDUM

**DATE:** June 1, 2009  
**To:** Illinois Juvenile Justice Commission  
**From:** Ron Smith  
**Subject:** Status of Compliance with the JJDP Act, Core Requirements

Below please find an update on Illinois' compliance with the OJJDP requirements. Compliance status is based on January through March, 2009 monitoring data.

Illinois was in compliance with all federal core requirements for the year 2008.

### **Deinstitutionalization of Status Offenders**

No minor accused of an act which would not be criminal if committed by an adult may be securely detained in a jail, lockup or juvenile detention center. Examples of status offenses are truancy, running away, underage drinking and ungovernable. An exception is granted for status offenders detained for violation of a valid court order. This requirement also extends to non-offenders, children who fall under the Juvenile Court Act who are abused, neglected and/or dependent. Under the 1995 regulations, the state has to prove that the original court order was valid, that is that the minor had received all of his/her rights under the Gault decision, that the minor has been ordered to do or not do something, that conditions of the order had been given orally in a court and in writing and that the minor had been admonished that violation of the court's order could result in detention. Prior to being ordered into detention for contempt of court, the case would also have to be reviewed by a group, not composed by court employees or police officials, to assure that all other means of dealing with the case had been exhausted. The judge is not bound by the group's recommendation.

**Status:** Illinois continues to be in compliance with this requirement in 2008. There were no DSO violations in jail or lockups. DSO violations in detention centers from January thru March 2009 totaled 16 compared to 15 in 2008.

At present the state does not use the valid court order exception, but is counting status and non-offenders detained for contempt of court as violations of the act. Staff continue to monitor the contempt of court violations to see if we need to prepare to use the valid court order exception. Violations would have to exceed 182 new (de-minimus figure) to jeopardize our compliance status. From January through March, 2009, there were 16 DSO Violations in detention centers ( 6 for truancy, 5 for non offenders and 5 for other status offenses ) and none in jails

or lockups compared to 15 violations in detention centers ( 11 for truancy, 1for non offenders and 3 for other status offenses ) and non in jails or lockups for the same period of time in 2008.

This provision could further be effected by legislation allowing DCFS to place wards in secure settings.

### **Separation of Adult and Juvenile Offenders**

When adult and juvenile offenders are incarcerated in the same jail or lockup, they must be separated so that they cannot see or hear each other.

**Status:** Illinois continue's to be in compliance with this requirement in 2008. From January through March, 2009, DOC staff had visited 96 municipal lockups(this includes 17 part time municipal lockups), 8 county jails, 1 IYC facilities and 1 approved collocated facility which detain juveniles with no findings of non-compliance with the separation requirement. As compared to 2008, when DOC visited 122 municipal lockups(this includes 12 part time municipal lockups) and 11 county jails, 2 IYC facility and 1 approved collocated facility which detained juveniles with no separation requirement violations

### **Jail Removal**

Juveniles accused of committing acts which would be criminal for adults are not to be securely detained in jails or lockups. A rule of reason is applied, allowing alleged delinquents to be detained for up to six hours for the purpose of investigation and identification. The clock starts the moment a juvenile is placed into a locked setting. This includes any locked room, or when a juvenile is cuffed to a stationary object. At the end of six hours, the juvenile must be released or transferred to a juvenile detention center. Prior to the year 2000 we had been using the old interpretation that once the clock started, it could not be turned off until the juvenile was released from custody, even if the juvenile was removed from the locked setting. Starting in 2000 we began using a new interpretation of the rule approved by OJJDP stating that once the clock starts, it can be stopped once the juvenile is permanently removed from the locked setting. Status and, /or non-offenders may never be securely detained.

**Status;** Illinois continue's to be in compliance with this requirement in 2008.

From January through March, 2009, 37 county jails and 166 municipal lockups securely detained juveniles. Of those 4 county jails and 13 municipal lockups exceeded the six hour limit resulting in 57 violations (11 in county jails and 46 in municipal lockups). Compared to 2008 when 7 county jails and 16 municipal lockups exceeded the six hour limit resulting 42 violations (15 in county jails and 27 in municipal lockups).

Violations would have to exceed 270 new (de minimus figure) or constitute a pattern and practice to jeopardize our de minimis compliance status. Public Act 89-0646 and The new Juvenile Justice Reform Law that allows minors to be held in lockups in excess of six hours for serious offenses and for lineups this is significantly increasing violations. Both of these are violations of the Jail Removal mandate.

### **Disproportionate Minority Contact (DMC)**

DMC no longer applies solely to confinement. The JJDP Act of 2002 requires States to "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 system."

Recognizing the complexity of the issue OJJDP requires that when a State determines that DMC exists, the State determines that DMC exists, the state must provide in its Formula Grants, a comprehensive three year plan and plan updates. This should include a description of specific delinquency prevention and system improvement efforts that are designed to reduce disproportionate minority contact with the juvenile justice system, including police, courts and corrections.

**Status Update:** DMC year end update will be presented at the commission meeting..

### **Compliance Monitoring**

States must demonstrate that they have an adequate system for monitoring compliance with the existing core requirements.

**Status:**  
DOC will now have monitored all 25 districts ten times and the juvenile intervention and support services center facility twice since its inception on 3/4/06. The 2008 monitoring visits took place the week of December 8th through the 12th, 2008. Next monitoring visits will take place the week of December 7th thru the 11th. The Chicago Police Department (CPD) started reporting to JMIS in December, 1999. From January through March, 2009 there were a total of **19** violations (8 in the 25 districts and 11 at the JISC) compared to **8** violations (2 in the 25 districts and 6 at the JISC) for the same period of time in 2008.

The new CPD Juvenile Intervention and Support Center (JISC) at 39<sup>th</sup> and California began operations as of 3/4/06. Reporting requirements have changed and the center starting self reporting in February, 2007. We had requested a letter from CPD stating that status offenders would not be securely detained in the center and they have complied with our request. The letter is on file.

DOC staff have made **124** visits to facilities for monitoring and technical assistance purposes from January through March, 2009. Since March, 1995 they made a total of **10,628** visits. They have now visited 99% of the municipal lockups, 100% of the county jails, 100% of the detention centers and 100% of the iyc centers. JJ staff meets with DOC staff monthly to provide training and work on cooperative projects. DOC and compliance monitor continue to upgrade and expand the master universe list.

From January through March, 2009, 166 of the 166 municipal lockups (100%), 37 of the 37 county jails (100%) and all of the juvenile detention centers are reporting to JMIS. Of the 37 county jails 24 are detaining only up to six hours and the remaining 13 are detaining juveniles between 40 hours and 7 days ( 5 for 40 hours and 8 for 7 days). County jails and municipal lock ups which have a policy that precludes the secure detention of juveniles may request an exemption from reporting to JMIS. Those exemptions are approved by DOC after reviewing the agency's policy.

Mr. Smith continues to work with the JJ Unit and DOC to coordinate the JMIS data collection, conducts on-site audit visits to jails, detention centers municipal lockups and IYC juvenile facilities. He continues updating the monitoring manual and prepares the annual monitoring report. He also coordinates all of the efforts with DOC and AOIC and will conducted 4 IYC facility visits (as requested by OJJDP) and will have visited 50% of the juvenile detention centers in the state in 2009.