

FAQs Regarding Revised Guidance

OJJDP recently notified states that OJJDP is revising its guidance on the Jail Removal and Separation Core Requirements of the Juvenile Justice and Delinquency Prevention Act (JJDP A). We recognize that this guidance will impact states' current policies and procedures and compliance activities. OJJDP is committed to working with states to identify obstacles, develop solutions, and to work collaboratively to ensure we successfully implement this guidance.

OJJDP has received a number of questions regarding the revised guidance, and we plan to periodically post answers to those questions. The first set of FAQs is below.

Please submit additional questions to OJJDP at JJDPACoreRequirementsFAQ@usdoj.gov.

What is the impetus for going in this direction? What is the purpose, what problem are you trying to fix?

OJJDP's goal is to promote the well-being of young people and limit their contact with the justice system. We can encourage this by limiting the time that juveniles accused of delinquent offenses are held in adult jails and lockups, even if they are held non-securely. We also want to keep status offenders from being held in adult jails and lockups for any length of time. The purpose of the new guidance is to bring the standard for compliance with the core requirements into alignment with the statutory language. This, in turn, provides fuller protection to juveniles.

How can there be a new change to policies issued without the statute being reauthorized, or new regulations being proposed? This feels like regulations are being promulgated, without going through the normal process. How will this change be put through the rule making process?

The new guidance does not reflect a mere policy change, but rather adherence to the actual statutory language of the jail removal and separation requirements. Regulations are not required to implement a statutory provision when the provision itself is unambiguous.

How will states/jurisdictions be able to assess whether or not youth are free to leave non-secure environments? What criteria will Compliance Monitors use?

Law enforcement personnel with custody of juveniles are trained to determine when/if a juvenile has been detained. Certain objective factors may inform the determination (e.g., use (or lack) of physical restraint, nature of the charge, area where held) but ultimately the determination as to whether or not a juvenile was free to leave should be documented by law enforcement at or near the time of the detention. OJJDP will be convening a series of listening sessions with states beginning in late July to learn what training, guidance, and other resources are needed to support implementation of the revised guidance.

How can jail removal apply in non-secure custody situations?

Jail removal (the requirements of Section 223(a)(13)) applies to certain enumerated juveniles who are detained or confined in a jail or lockup for adults. A “non-secure custody situation” that does not occur in an adult jail or lockup cannot constitute a jail removal violation. A “non-secure custody situation” that involves the detention of a juvenile in an adult jail or lockup, regardless of whether such juvenile is in a part of such jail or lockup designated as secure, may result in a violation of jail removal.