

OJJDP Guideline Manual

OJJDP M 7140.7A

AUDIT OF COMPLIANCE MONITORING SYSTEMS



August 21, 2000

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Distribution: All OJJDP Professional Employees
All OJJDP Formula Grant Recipients

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FOREWORD

1. **PURPOSE.** This Manual sets forth the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) policies and procedures governing the audit of state compliance monitoring systems.
2. **SCOPE.** The provisions of this Manual apply to OJJDP and all of its formula grant recipients.
3. **AUTHORITY.** Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, 42 U.S.C. Sec. 5601, et seq., as amended (Pub. L. 93-415, as amended by Pub. L. 102-586), and 28 C.F.R. Part 31.
4. **EFFECTIVE DATE.** The provisions of this Manual are effective on its publication.
5. **CANCELLATIONS.** This manual cancels OJP M 7140.7.
6. **REPORTS/FORMS.** Use of the following reports/forms are prescribed by this Manual.
 - a. Monitoring Plan Checklist
 - b. Notification Letter
 - c. Field Audit Checklist
 - d. Audit Report Format
7. **REGULATIONS.**
 - a. OJJDP published the Final Regulation for Formula Grants in the May 31, 1995, Federal Register (60 FR 28440-28451). A revised version was published in the December 10, 1996 Federal Register (61 FR 65132-65140). These notices are codified at 28 C.F.R. 31.
 - b. Pursuant to Section 223(a)(15) of the JJDP Act and 28 C.F.R. 31.303(f), the state must develop a plan which provides for an adequate system of monitoring jails, lockups, detention facilities, correctional facilities and nonsecure facilities to ensure that the removal of status offenders and nonoffenders from secure detention and correctional facilities, separation, and jail removal requirements are met. This section of the Multi-Year Application and Plan must describe the plan, procedure and timetable for the state's annual monitoring activities during the 3 year planning cycle. At a minimum, the plan must provide a detailed description of monitoring tasks which includes the identification of the specific agency or agencies responsible for each task. The tasks to be included are (a) the identification of the monitoring universe, (b) the classification of the monitoring universe, (c) the inspection of facilities, and (d) data collection and data

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verification.

- c. Pursuant to Section 204(b)(6) of the JJDP Act, the Administrator shall provide for the auditing of monitoring systems required under Section 223(a)(15) to review the adequacy of such systems.

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CHAPTER I. GENERAL MONITORING INFORMATION

1. **MONITORING DEFINITION.** Monitoring means to watch, observe or check for a special purpose. In this instance, the special purpose is to see that the goals of deinstitutionalization of status and nonoffenders, the separation of alleged and adjudicated delinquents, status and nonoffender juveniles from adult offenders in institutions, and the removal of juveniles from adult jails and lockups are being met; to evaluate how well they are being met, and to take remedial action where necessary.
2. **MONITORING PLAN.** Each grantee must have a written plan providing for an adequate system of monitoring secure and nonsecure facilities to ensure that the requirements of the JJDP Act and the OJJDP Formula Grants Regulation (28 C.F.R. Part 31) are being complied with. The plan should describe the barriers faced in implementing and maintaining a monitoring system and the state and local strategies and plans to overcome such barriers. The plan should also describe the legislative and/or administrative procedures which have been established for the state to receive, investigate and respond to reports of compliance violations. At a minimum, the plan must provide a detailed description of monitoring tasks which includes the identification of the specific agency or agencies responsible for each task.
3. **MONITORING SYSTEM.** The development of a statewide monitoring system, if it is to be effective in achieving the monitoring requirements and goals, must be planned in such a way that the system can identify all secure and nonsecure residential facilities in which juveniles might be placed under court authority. At its optimal level, the system must be able to keep track of the juveniles at each step in the confinement process; it must be capable of locating and recording the number and classification of juveniles confined in each residential facility; and to correct incidences of noncompliance with the Act or situations which may endanger the juveniles or cause unnecessary detention. To this end, all applicable laws, regulations, standards, guidelines, policies, etc., must be clearly defined in written form, and made available to all persons involved with the incarceration of juveniles, on a need-to-know basis.
4. **MONITORING AUTHORITY.** The agency(s) responsible for monitoring should have legal authority to monitor all facilities in which juveniles might be placed under court authority. The authority should be sufficiently broad to permit the monitoring agency(s) to require each facility that could be classified as a secure detention or correctional facility to be inspected for classification purposes, to maintain specific juvenile admission and release records, and permit the designated monitors to review these records at selected intervals during the year.
 - a. The basic authority should give the agency(s) the right to develop and enforce, pursuant to state statutes, standards for all secure facilities that might hold juveniles, to inspect the facilities for compliance, to cite the facilities for violations of the standards, and to enforce sanctions when violations are not corrected.

- b. Such authority should permit monitors to review records containing detention information for the purposes of monitoring, with the written agreement that the monitors will respect the confidential nature of the information and will not knowingly record or divulge information which might identify a specific child except as may be required to protect the child.
 - c. Effective monitoring and enforcement can only be fully implemented when the agency's legal responsibility is defined in clear and understandable terms and is known to all concerned parties. The primary sanction for compliance violations should be prohibition against the facility admitting juveniles as long as the cited violations exist. An agency, other than the state designated agency, may be given legal authority to monitor, but the state designated agency retains accountability for the overall performance of the monitoring tasks.
5. **COMPATIBILITY OF DEFINITIONS.** In classifying facilities and identifying the types of behavior of the juveniles to be counted for monitoring purposes, governmental units need to operate under definitions that are compatible with those found in the Formula Grants Regulation at 28 C.F.R. §31.304. Preferably, compatible definitions will be included in the state code. Where this is not the case, monitoring agencies should adopt and follow the OJJDP definitions for monitoring.
6. **MONITORING TASKS.** The following descriptions of monitoring tasks are contained in the Formula Grants Regulation at 28 C.F.R. §31.303(f).
- a. **Identification of Monitoring Universe.** This refers to the identification of all facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if each should be included in the monitoring effort. This includes those facilities owned or operated by public or private agencies. Planning agencies, in cooperation with other state agencies and organizations, should develop a full list of facilities to be considered for possible inclusion in the monitoring universe. The list should include all jails, lockups, detention centers, juvenile correctional facilities, halfway houses, group homes, foster homes, and any other secure or nonsecure public or private facilities in which juveniles might be detained or placed. Depending on the scope of the jurisdiction and authority of the juvenile court, the list may need to include public or private mental health facilities, chemical dependency programs, and detoxification centers.
 - (1) Selection of the potential monitoring universe is a necessary step in identifying all facilities that might conceivably fall under the purview of the JJDP Act, regardless of the primary population served by the facility.
 - (2) Laws which prohibit the incarceration of juveniles in certain types of facilities, such as jails or lockups, do not guarantee the exclusion of juveniles from such facilities, and for this reason the mere existence of such laws would not exclude such facilities from the monitoring universe. Neither should the fact that the facility did not hold juveniles during an

earlier report period. These factors are, however, relevant to decisions about which facilities are to be inspected and actually monitored, viz., data collection and verification.

- b. **Classification of the Monitoring Universe.** The classification of all facilities to determine which should be considered as a secure detention or correctional facilities, adult correctional institutions, jail, lockup or other types of secure or nonsecure facilities and thus should be monitored, requires an assessment of each facility based on the OJJDP regulations. Generally all jails, lockups, juvenile detention centers, training schools and other public and private facilities should be subject to classification.
- c. **Inspection of Facilities.** Inspection of facilities is required to classify according to regulations and to review whether adequate sight and sound separation occurs for juveniles housed in facilities which also confine adult offenders. Such inspections are necessary to provide the protections required by the Act and to determine whether adequate data are maintained to determine compliance with the three statutory requirements. The inspection process should include a method for reporting compliance with the separation requirements for each secure facility which holds both juvenile and adult offenders. Reports on each facility's compliance or noncompliance should be made available to the facility as a record of findings of the inspection.
- d. **Data Collection.** It is necessary to check each facility's admission/release records to obtain an accurate count of the juveniles admitted and other required information. Data taken on-site from the primary source can be easily verified. Questions that arise relating to the data can be answered on the spot, and data tabulation problems can be identified and hopefully corrected. On-site data collection increases the accuracy of the information.
 - (1) Obtaining data by questionnaire or self-report can provide the needed information, but the data must be verified unless the report is a verified copy of the admission/release record. Data collected by an agency other than the state designated agency must also be verified.
 - (2) Finally, all data must be analyzed to determine the progress towards deinstitutionalization of status offenders, the adequacy of separation and progress toward full compliance with the jail removal requirement.
 - (3) While the data is eventually presented in a summary form, the original information should be compiled to show the number of juveniles in each category that are held in each individual facility. This data should routinely be recorded by each secure facility as an integral part of its population control and recordkeeping responsibility. Included among the information recorded in the juvenile admission/release record should be the name of the youth (initials or numerical identifiers are acceptable), the

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date of birth, the most serious alleged offense, the date and time of admission, the date and time of release, and the name and relationship of the person to whom the youth was released. The admission/release record may and probably should contain other information, but at minimum, the information listed is needed for monitoring purposes.

7. **MONITORING REPORT PERIOD.** Each state must select a monitoring report period. This is the period of time during which facility admission/release records will be recorded and later collected to determine compliance or progress toward compliance. The regulations permit each agency to set its own report period which should be 12 months but may not be less than 6 months. Because seasonal variations effect the information obtained, a 12-month report period is recommended. If less than 12 months of data is used, the data must be projected in a statistically valid manner to reflect a full year reporting period.
8. **METHOD OF REPORTING.** Regardless of who collects the monitoring data or inspects the facilities, the data and information must be provided to the designated state agency, where it is analyzed, reviewed, and finally written up in the form of an annual Monitoring Report. Once in final form, the report is submitted to OJJDP by December 31, each year.
9. **VIOLATION PROCEDURES.** Inspections or other mechanisms which identify incidences of noncompliance, or other deficiencies which may be dangerous to confined juveniles, are only of value when a particular agency can act to correct or eliminate the identified problem. Authority to deal with violations is essential. Written violation policies and procedures should be available so all concerned will know what is expected of them and what action may be taken. Such authority should allow the monitoring agency to cite a facility for specific violations and to temporarily restrict or prohibit the admission of juveniles to the facility while the conditions exist. The established violation procedures should permit the facility a reasonable time to correct the problem. The authority should also allow for the imposition of a permanent prohibition against the facility holding juveniles if the facility cannot eliminate the cited violation, or refuses to act. The established violation procedures should be made available to all classified facilities.

CHAPTER 2. AUDIT INFORMATION

10. **FUNCTION OF THE AUDIT.** The function of the audit is to determine how closely a state's monitoring system approaches the requirements stated in the Formula Grants Regulation. The auditor should be aware that each monitoring problem has several possible resolutions. There is no single right way to monitor.

The audit is basically composed of two steps. The first step is a review or desk audit of the state's compliance monitoring plan. The second step involves a site visit or field audit. Both steps are described below.

11. **DESK AUDIT.** Using a Monitoring Plan Checklist (appendix 1), the OJJDP State Representative will make an initial assessment of whether or not the monitoring plan adequately addresses the required monitoring tasks and any identified monitoring problems.

Corresponding to the monitoring tasks identified above in paragraphs 4-6, the desk audit examines the following issues:

- a. **Agency's Authority to Monitor.** Does the agency have legal authority to monitor? If not, is the legal authority of another agency or court used?
 - b. **Compatibility of Definitions.** Are definitions contained in the state code or rules and regulations compatible with the OJJDP statute and regulations? If not, are the OJJDP definitions used for monitoring?
 - c. **Identification of Monitoring Universe.** What methods are used to identify facilities for inclusion in the monitoring universe?
 - d. **Classification of Monitoring Universe.** Are definitions compatible with OJJDP statute and regulations used to classify facilities? Were any facilities or group of facilities that should have been classified as secure detention and correctional facilities or as adult jails and lockups, excluded? If yes, why?
 - e. **Monitoring Report Period.** What period of time was selected by the monitoring agency during which detention data would be tabulated and collected for monitoring?
 - f. **Inspection of Facilities.** What process, methods, and personnel were used to inspect facilities to determine their classification and the adequacy of compliance with the statutory and regulatory requirements?
 - g. **Data Collection.** What process, method, and personnel were used to collect and verify monitoring data?
 - h. **Method of Reporting.** How was monitoring information compiled? Who prepared the annual Monitoring Report? Was the report used for purposes other than to comply with the JJDP Act reporting requirements?
 - i. **Violation Procedures.** Were established written violation policies and procedures available to deal with identified violations and to bring about the elimination of conditions found in violation of the regulation?
12. **FIELD AUDIT.** While the desk audit determines whether or not the monitoring plan addresses monitoring responsibilities and identified problems, the field audit goes beyond this. Through an on-site review of additional documentary evidence, interviews with persons responsible for monitoring, and data verification at selected facilities, the field

audit assesses how well the state's monitoring plan is actually carried out.

- a. The following documentary evidence should be supplied to the auditor when he or she arrives on-site:
 - (1) The State Monitoring Manual. Ideally, each state has a set of written procedures that describe the actual mechanics of the annual monitoring cycle. The monitoring manual, if detailed enough, would be sufficient documentation.
 - (2) The legal or administrative definitions of facility types. This material is necessary to determine whether the state classifies facilities and juveniles in accordance with the JJDP Act and Formula Grants Regulation.
 - (3) The legal or administrative definition of sight and sound separation. This definition is necessary to determine whether sight and sound separation is properly checked on the annual visits to institutions which hold juveniles and adults.
 - (4) Any legal or administrative procedures relating to the authority needed to complete the monitoring task. This includes the authority to monitor, and the authority to make annual inspections of secure facilities. Also important is the legal underpinning for the violations procedures component. The auditor must determine whether or not the monitoring agency or some other agency has the authority to investigate and sanction facilities that violate any of the regulations.
 - (5) A complete list of all public and private juvenile detention and correctional facilities in the state, including jails, lockups, detention centers and other secure institutions, group homes, shelter and other nonsecure residential facilities. This list should include the classification of each facility and the date of the last inspection. This list will allow the auditor to determine the scope of the state's monitoring universe, the accuracy of the classification process and the frequency of inspections. This list should be accompanied by a discussion of how the list is updated.
 - (6) Forms used by local facilities and by the state agency(s) to collect and report data. The auditor will require these forms to determine whether the state collects the necessary data in the proper format.
 - (7) A list of the agencies responsible for each step of the monitoring process. This includes agencies responsible for facility identification and classification, inspection, data collection and reporting. This material should be included in the monitoring plan document itself.
 - (8) A timetable for the state's monitoring cycle, showing the allocation of

tasks across the yearly cycle.

- (9) A detailed explanation and justification of any sampling or projection techniques used in monitoring.

b. The following evidence should be submitted to the auditor prior to his or her arrival on-site:

- (1) A written description of which of the exceptions allowed by the JJDP Act and Formula Grants Regulation are used, e.g., accused delinquents for up to 6 hours in jails and lockups, and how the criteria for using each one is satisfied by the state.
- (2) Statutes, regulations, executive orders, or court rules that require the deinstitutionalization of status offenders and nonoffenders, separation of juveniles and adults, and jail removal.

c. Every state should supply the above materials to the auditor. In addition, the auditor should request further documentation to fill in gaps in this material or to clarify ambiguous points. The extent of this supplementary documentation is left to the auditor; it may be quite extensive if the state does not have a pre-existing monitoring procedures manual.

13. **NOTIFICATION OF THE SITE VISIT.** OJJDP will notify the grantee by letter at least 30 business days prior to the audit. The 30-day period will be counted from the intended date of arrival for beginning the audit. The Notification Letter in appendix 2 will be used to remind the state of the documentary evidence to be reviewed on-site, and to confirm staff interviews and facility visits.

14. **THE ON-SITE VISIT.** A truly complete and comprehensive audit includes an on-site visit to the state. The review of the monitoring plan and the accompanying documentation will probably uncover discrepancies or ambiguities that need to be resolved. The auditor can do this best by making an inspection visit to the state to gather the necessary information. The auditor can use the visit to determine why a state plan is weak in a certain area; the state may be facing constraints that are not detailed in the plan, and by a visit, the auditor can learn of these through interviews with key state personnel. The visit will also be used to verify that the procedures outlined in the state plan are actually implemented. Finally, the auditor will undertake data verification. The final test of any monitoring plan is the quality of the compliance data produced by the plan. To the greatest extent possible the auditor and staff should use the visit to verify the monitoring system plan and the compliance figures reported by the state.

a. **Preparation.** To be fully effective, the on-site visit should be preceded by extensive preparation. The auditor, in a preparation phase, should review the monitoring plan and the documentation in great detail. The auditor should pay special attention to the Monitoring Checklist (appendix 1) and commentary and

make note of areas in which the plan needs further development. The auditor should note areas of ambiguity and points that need to be clarified. Omissions and ambiguities in the plan may not indicate a serious flaw in the plan if the state agency inadvertently left out some available information.

- (1) This preparation will result in a set of questions specific to the state that the auditor will bring to the field, in addition to the Field Audit Checklist (appendix 3). These questions will guide the course of the field audit.
- (2) Further preparation includes an itinerary of the on-site visit. The auditor should have a list of the state personnel to be interviewed. The more complete this list, the more smoothly the visit will go. In addition, the auditor should have a list of facilities to be visited. The on-site verification of compliance data is too important to be left to the last minute. The auditor should enlist cooperation from the state agency in scheduling appointments with facility personnel. The facility review may indeed be the most sensitive part of the whole process. The facility visit should be handled with tact and courtesy.
- (3) The facilities selected should be as representative as possible. In most states, three to five facilities will be an adequate sample. These should include one metropolitan jail, one rural jail, a juvenile detention center, a juvenile correctional facility, and an adult lockup.
- (4) When leaving for the visit, the auditor should bring along information and notes based on the monitoring checklist analysis, supporting documentation, and a list of clarifications and questions. The auditor should also have all material needed to conduct on-site facility data verification.

- b. **On-Site Interviews.** Once on-site, the first order of business should be to conduct the necessary interviews with the state personnel, or other persons who have monitoring responsibilities. The auditor should meet with as many of the key personnel involved in monitoring as possible. This group varies in numbers and composition from state to state. At a minimum, interviews should be conducted with the personnel responsible for the design and maintenance of the monitoring system; the personnel responsible for collection and analysis of the monitoring data; the officials who inspect jails and juvenile facilities; and, those responsible for the violations mechanism.

Monitoring is a process that takes place in annual cycles, hence it is very difficult to observe a monitoring system in order to verify that it works in the way described in the monitoring plan. The auditor should first have the state agency personnel describe in detail the yearly operation of the system. The auditor should "walk through" the monitoring cycle when conducting these interviews. Next, the auditor should raise the questions and clarifications. At this point, the state

agency's staff may be able to supply any information that was left out of the monitoring plan. However, it may also be the case that the state plan is flawed in some respect. If so, the auditor should point this out to the agency personnel and discuss ways in which these problems may be resolved.

c. **Verification of Compliance Data.** The next step in the visit involves the verification of compliance data. This verification proceeds at two levels. First, the auditor should determine that the data collected by the state are compatible with the data presented in the state monitoring report. This data should be examined to determine that the state is correctly reporting the numbers that it is collecting from local facilities.

- (1) The second level of data verification focuses on data collection by local facilities. Through the on-site facility visits, the auditor will determine whether the sample facilities are correctly reporting compliance violations. The state should have from each facility a report giving the total number of admissions to that facility in violation of the JJDP Act. The state should arrange for on-site visits by the auditor and one of its own staff to verify these totals by referring to facility records such as admission logs. Some discrepancy should be expected, as no recordkeeping system is foolproof. However, serious differences between the facility logs and the admission reports to the state should be noted.
- (2) For each facility visited, the auditor will prepare contemporaneous notes that contain, at a minimum:
 - (a) A general description of the jurisdiction the facility is located in.
 - (b) A description of who (which agency) administers the facility.
 - (c) A description of the facility in terms of its residents, how they are processed, and their daily schedule.
 - (d) A description of the human and mechanical supervision of residents (visual and auditory).
 - (e) A diagram of the facility (sketched by the auditor), including the "juvenile area" of adult facilities.
 - (f) A detailed description of the provisions for sight and sound separation in adult facilities.
 - (g) A detailed description of the admission data reviewed.
 - (h) A list of the auditor's findings in relation to the admission data reviewed.

- d. **Exit Conference.** Upon completion of the system review and facility data verification, the auditor will conduct an exit conference. This meeting will provide the auditor an opportunity to discuss his or her findings and for the state to make any final clarifying statements. The on-site visit is over once the exit conference is concluded.

15. **AUDIT CHECKLIST.** A Checklist (appendix 3) has been provided for use in preparing for and carrying out the audit. It should not be considered a complete guide to the audit process. Instead, it should be considered a starting point for the field audit. As issues are discussed and the information becomes clearer, the auditor will have to continue to investigate each nuance as necessary. In some instances additional documentation may be necessary to answer new questions that arise as the monitoring discussion goes on.

16. **AUDIT REPORT.** The major product of the site visit is a written report. The report should include a discussion of the strengths and weaknesses of each monitoring system; consideration of the constraints and limitations faced by each state in carrying out the monitoring tasks; concrete proposals made by the state or suggested by the auditor to overcome monitoring barriers; and, an assessment of the quality of the compliance data collected based on the data verification effort.
 - a. A copy of the report will be forwarded to the state within 30 business days of the completion of the on-site portion of the audit, requesting a written response and proposed resolution of any audit findings. This report should be treated and processed as a regular in-house audit report.

 - b. The Audit Report Format is outlined in appendix 4.

17. **RESPONSE TO THE AUDIT REPORT.** The state response to the audit findings should be returned within 30 business days from the date on the audit report and must answer the following questions:
 - a. What has been done to correct the problem?

 - b. Who corrected the problem?

 - c. When was the problem corrected?

 - d. If the problem has not already been resolved, what is the plan and timeline for resolving it?

 - e. Attach any documentation that may be needed to support the explanation of the resolution procedure.

18. **AUDIT CLEARANCE.** OJJDP must review and make an initial determination on the acceptability of the state's response within 30 business days of its receipt. In making the initial determination, OJJDP staff will assess the extent to which the following, critical

elements of a state's compliance monitoring system are in place and functioning effectively, or will be as a result of the state's plan of action:

- a. The agency with the authority to monitor must, at a minimum, be empowered to inspect secure residential facilities and to review records.
- b. Facility inspections should be carried out annually with attention being focused on each facility's recordkeeping system, and the adequacy of sight and sound separation (where applicable).
- c. The designated state agency must maintain a master list of all residential programs that might hold juveniles pursuant to court authority. The process for updating this list and classifying all facilities must reasonably be expected to capture any new facilities coming into existence.
- d. There must be a timetable for carrying out all compliance monitoring tasks.
- e. At least 6 months of monitoring data must be available during each reporting period.
- f. The designated state agency must, at a minimum, have data from a representative sample of all secure, residential facilities available for analysis. Unless otherwise justified, a representative sample will be considered 50% of each type of secure, residential facility, e.g., jails, lockups, juvenile detention centers, and juvenile correctional facilities. This threshold is necessary to ensure the reliability of any data projections. While the reporting by facilities to the designated state agency is, in most cases, voluntary, each state is expected to strive for reporting by all secure, residential facilities.
- g. The designated state agency must verify, on-site, self-reported data or data provided by another agency. On-site verification, unless otherwise justified, must take place at a minimum of 10% of the facilities in each classification category, e.g., jails, lockups, juvenile detention centers, and juvenile correctional facilities.
- h. The monitoring data analyzed by the designated state agency must, at a minimum, include an identifier for each youth (name, initials, number), age, charge, date and time of admission, and date and time of release.
- i. There must be evidence that the state's use of exceptions allowed by the JJDP Act and Formula Grants Regulation are proper, viz., the criteria for their use are satisfied.
- j. There must be evidence that, where state and Federal definitions are incompatible, the latter are used for compliance monitoring.

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- k. Pursuant to Section 223(a)(12)(A) of the JJDP Act, instances of noncompliance with the deinstitutionalization provision (if above the de minimis rate of 5.8) must be in violation of a state law and there must be a plan to prevent recurrences.
- l. Pursuant to Section 223(a)(13) of the JJDP Act, instances of noncompliance with the separation provision must be in violation of a state law and an enforcement mechanism must exist.
- m. Pursuant to Section 223(a)(14) of the JJDP Act, instances of noncompliance with the jail removal provision (if above the de minimis rate of 9) must be in violation of state statutes, no pattern or practice exists, a mechanism exists to enforce applicable state law, and an acceptable plan has been developed by the state to eliminate the noncompliant incidents.
- n. The designated state agency must have a plan to eliminate barriers to implementing an adequate compliance monitoring system, pursuant to Section 223(a)(15) of the JJDP Act.
- o. After completing its assessment of the state's response, OJJDP will make an initial determination of whether the plan of action described by the state is acceptable or not:
 - (1) **Acceptable Plan of Action.** Where any of the auditor's findings involve one or more of the above critical elements, and the state's plan of action adequately addresses those elements, OJJDP will notify the state, in writing, of the following:
 - (a) OJJDP's initial determination is that the plan of action is acceptable.
 - (b) A date will be established (consistent with the plan of action) for the state to submit correspondence attesting to the fact that the activities described in its response have been fully implemented.
 - (2) Upon receipt of the state's certification, OJJDP will send a final written notification that all findings have been cleared, and that the state's compliance monitoring system is adequate. The state will also be advised to notify OJJDP in the event of changing circumstances that adversely effect its compliance monitoring system.
 - (3) **Unacceptable Plan of Action.** Where any of the auditor's findings involve one or more of the above critical elements, and the state's plan of action does not adequately address those elements, either because the activities described are deemed insufficient or the timelines for action are unreasonable, OJJDP will notify the state, in writing, of the following:

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- (a) OJJDP's initial determination is that the plan of action is unacceptable.
 - (b) OJJDP will indicate which activities in the state's plan of action need to be revised and how, any additional activities that are necessary, and what timelines would be acceptable.
 - (c) A date will be established for the state to submit a revised plan of action.
 - (d) If the state's revised plan of action adequately addresses the critical elements listed above, a date will be established (in writing) for the state to submit correspondence attesting to the fact that the activities described in its revised plan of action have been fully implemented.
- (4) Upon receipt of the state's certification, OJJDP will send a final written notification that all findings have been cleared, and that the state's compliance monitoring system is adequate. The state will also be advised to notify OJJDP in the event of changing circumstances that adversely effect its compliance monitoring system.

NOTE:

While no arbitrary timelines are being established for addressing the critical monitoring system elements, states are reminded that, failure to implement these requirements amounts to noncompliance with Section 223(a)(15) of the JJDP Act. Each state and territory's compliance with this section of the statute will be reviewed prior to OJJDP finding a state eligible for future Formula Grants Awards. Where necessary, future awards may be delayed or special conditions may be added to an award requiring specific action within narrowly prescribed time frames.

- (5) **Critical Elements Not Involved.** Where the auditor's findings do not involve any of the critical elements of a compliance monitoring system, and the state has provided a plan of action for addressing other, noncritical elements, OJJDP will notify the state, in writing, of the following:
- (a) The state's compliance monitoring system has been determined to be adequate.
 - (b) The state will be asked to notify OJJDP when the noncritical elements of its compliance monitoring system have been fully implemented. In addition, the state will be advised to notify OJJDP in the event of changing circumstances that adversely effect its compliance monitoring system.

APPENDIX 1. MONITORING PLAN CHECKLIST

Monitoring Plan Checklist

State _____

Date _____

1. Does the plan provide a timetable for annually monitoring jails and lockups? Yes_ No_
2. Does the plan describe how the universe of facilities will be identified and which agency is responsible for identifying them? Yes_ No_
3. Does the plan include the monitoring of both public and private facilities? Yes_ No_
4. Is there a clear indication/description as to how facilities will be classified? Yes_ No_
5. Is there a description as to which agency(s) will classify facilities? Yes_ No_
6. Does the plan detail how facilities will be inspected and which agency(s) will actually do the inspections? Yes_ No_
7. Does the state indicate what will be reviewed during the inspections? Yes_ No_
8. Is there a detailed description of how data will be collected and verified? Yes_ No_
9. Does the plan indicate which agency will collect and verify the data? Yes_ No_
10. Does the reporting period cover at least a 6 month period? Yes_ No_
11. Does the monitoring include sampling techniques? Yes_ No_
If yes, is it statistically valid? Yes_
No_
12. Does the monitoring include data projection? Yes_ No_
If yes, is it statistically valid? Yes_
No_
13. Does the plan describe barriers in implementing and Yes_ No_

maintaining a monitoring system?

14. Does the plan address realistic approaches to overcome barriers? Yes_ No_
15. Does the state describe legislative and/or administrative procedures and sanctions for each of the following: Yes_ No_
- a. receiving violation complaints? Yes_ No_
 - b. investigating violation complaints? Yes_ No_
 - c. reporting violation complaints? Yes_ No_

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APPENDIX 2. NOTIFICATION LETTER

Dear Juvenile Justice Planner:

To confirm our telephone conversation of (date), I will be conducting a field audit of (state's) compliance monitoring system, (date).

In order to satisfy generally accepted auditing standards, I will need to review the following materials during the audit:

1. The legal and/or administrative definition of a secure facility as contained in the Juvenile Code, state regulations, or other documents.
2. The legal and/or administrative definition of sight and sound separation.
3. The legal and/or administrative policies and procedures that grant authority to your agency or another to conduct monitoring. This includes the collection or submission of monitoring data and the annual inspection of facilities.

Related to this is the authority to receive and investigate complaints of violations and to impose sanctions where necessary.

4. A complete list of all public and private juvenile detention and correctional facilities in the state, including jails, lockups, prisons, youthful offender institutions, mental health facilities, juvenile detention centers, and training schools. Also include group homes, shelter care and other nonsecure juvenile residential facilities, public and private. A list of foster homes is not needed, although the total number of such homes is requested. This list should include the classification of each facility (public-private, juvenile-adult, and secure-nonsecure), the date of the last inspection, and the date of the next scheduled inspection. Please include a description of how the list gets updated and any guidelines that are provided to inspectors that require a review of the adequacy of each facility's recordkeeping system and, where applicable, provisions for sight and sound separation.
5. A clear description of the criteria for classifying facilities (legal and/or administrative definitions).
6. Forms used by local facilities and by the state to collect and report data.
7. A list of the agencies responsible for each step of the monitoring process and an organizational chart for each.
8. A timetable for the state's monitoring cycle showing the allocation of tasks across the yearly cycle.
9. A detailed explanation and justification of any sampling or projection techniques used in monitoring.

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Please have copies of these materials available for me when I arrive. Following my review, they will become a part of (state) monitoring file maintained by the OJJDP.

In order to help me prepare for the field audit, please send me the following materials within 2 weeks of receipt of this letter:

1. Statutes, regulations, executive orders, or court rules that require the deinstitutionalization of status offenders and nonoffenders, separation of juveniles and adults, and jail removal. These documents should be accompanied by a written description, showing which of the exceptions allowed by the JJDP Act and Formula Grants Regulation are used, e.g., accused delinquents for up to 6 hours in jails and lockups, and how the criteria for using each one is satisfied by the state.

In addition to my review of documents, I will need to interview those persons who have the major responsibility for carrying out compliance monitoring in (state). We agreed to the following schedule of appointments:

| Dates | Times | Location | Name of Person | Agency | Role |
|-------|-------|----------|----------------|--------|------|
|-------|-------|----------|----------------|--------|------|

Finally, the most recent monitoring data submitted to the OJJDP will need to be verified on a sample basis. We agreed on the following schedule of facility visits:

| Date | Facility | Location |
|------|----------|----------|
|------|----------|----------|

For each of these facilities, I will need to compare their admission logs with copies of the reports they submitted to your agency or that you prepared after on-site data collection, for the _____ monitoring period. Please have copies of these reports available for me to take into the field.

In closing, you will probably be asked a number of questions by the people who are participating in this field audit. Please refer to the OJJDP Handbook, Audit of Compliance Monitoring Systems, and feel free to contact me to help answer any questions.

I look forward to working with you to make this important process successful.

Sincerely,

Juvenile Justice Program Specialist

APPENDIX 3. FIELD AUDIT CHECKLIST

State: _____

Auditor: _____

1. COLLECTION OF BASIC INFORMATION

NOTE TO AUDITOR: This checklist is provided as a guideline to ensure the consistent collection of basic information. It should be considered a beginning point, not an end, to the field audit. The quality of this field audit will be determined by the depth of the response to each item and the usefulness of the auditor's findings and recommendations.

a. Authority to Monitor:

- (1) Agency with legal authority to monitor?

Name:

Briefly describe the agency's structure and, if different from the state planning agency, its relationship with the state planning agency.

- (2) Documentation on file?

Yes: No:

Cite authority:

- (3) Can they require facilities to maintain specific admission and release information?

Yes: No:

Cite authority:

- (4) Can they require facilities to permit review of records by designated monitors?

Yes: No:

Cite authority:

(5) Do they have authority to set standards?

Yes: No:

Cite authority:

If not, describe the agency with such authority:

(6) Do they have authority to inspect?

Yes: No:

Cite authority:

If not, describe the agency with such authority:

(7) Do they have authority to cite for violations?

Yes: No:

Cite authority:

If not, describe the agency with such authority:

(8) Do they have authority to enforce sanctions?

Yes: No:

Cite authority:

If not, describe the agency with such authority:

(9) Is there a state monitoring plan?

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Yes: No:

Will be completed:

(10) Is there a state monitoring manual?

Yes: No:

Will be completed:

(11) Is there a written timetable for the monitoring cycle describing tasks by month?

Yes: No:

Describe the timetable in terms of the following:

- (a) Facility Identification:
- (b) Classification:
- (c) On-site inspection:
- (d) Data collection:
- (e) Data verification:
- (f) Data processing:
- (g) Report writing:

Does it include agencies or individuals responsible for each step?

If not, when will it be completed:

NOTE: Latitude should be allowed for states that combine two or more steps into one (some states combine inspection, collection, verification and classification into a single on-site inspection, for example).

(12) Are barriers to implementing and maintaining a monitoring system addressed?

(13) Does the plan address realistic approaches to overcoming barriers?

b. Compatibility of definitions:

(1) Status Offender

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

State Definition:

(2) Nonoffender

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.

State Definition:

(3) Delinquent

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

State Definition:

(4) Sight and Sound Separation

Juvenile alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have contact with adult persons incarcerated. The term "contact" is defined to include any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees.

State Definition:

(5) Secure

Residential facilities which include construction fixtures designed to

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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.

State Definition:

(6) Valid Court Order

The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution.

These rights are detailed in the Formula Grants Regulation at 28 C.F.R. §31.303(f)(3). Focus on whether or not a detention hearing is provided within 24 hours.

NOTE: Does not apply to nonoffenders.

State Definition:

(7) Deinstitutionalization of Status Offenders

No status and nonoffenders in secure facilities.

Exceptions: 24 hours after initial police custody.

Valid Court Order (see above).

State Definition:

(8) Separation

See (4) above.

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Exception: Does not apply to juveniles transferred to criminal court.

State Definition:

(9) Jail Removal

No juveniles in adult jails or lockups.

Exceptions: Accused delinquent in non-MSA if state laws requires detention hearing within 24 hours.

Accused delinquent may be held for up to 6 hours for processing.

Does not apply to juveniles transferred to criminal court on criminal felony charges.

Status and nonoffenders cannot be held in jails and lockups for any length of time under Section 223(a)(14) of the JJDP Act.

State Definition:

(10) Juvenile

N/A

State Definition:

c. Monitoring Universe:

(1) Agency responsible for identifying facilities in monitoring universe?

Public Facilities Name:

Private Facilities Name:

(2) Method used to identify facilities in monitoring universe and update?

Documentation on file: Yes: No:

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(3) Agency responsible for classification of monitoring universe?

Public Facilities Name:

Private Facilities Name:

Documentation on file: Yes: No:

Does it include:

- | | | | |
|-----|---|-----|----|
| (a) | Explanation of how classified: | Yes | No |
| (b) | Lists of facilities: | Yes | No |
| (c) | Explanation of how updated: | Yes | No |
| (d) | Do other agencies cooperate if not responsible: | Yes | No |

Describe:

(4) Were any facilities or groups of facilities excluded?

Yes: No:

Excluded facilities with explanation:

How do they go about assessing the various facilities to determine their classification?

Self-Report

How is it verified:

Site-Visit

Personnel used:

How do they guarantee that nonsecure facilities have no secure component?

(5) Is there a list of all potential facilities on file?

Yes: No:

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Will be completed:

- (6) Is there a complete list of classified facilities on file?

Yes: No:

Will be completed:

- (7) How does this list get updated?

d. Monitoring Report Period:

- (1) Period of time selected:
(2) If less than 12 months, why?
(3) If not a minimum of 6 months, why?

e. Inspection of Facilities:

- (1) Agency responsible for inspection?

Public Facilities Name:

Private Facilities Name:

- (2) Describe Process/Methods:

Documentation on file? Yes: No:

- (3) Personnel used?

Documentation on file? Yes: No:

- (4) Is there a list showing each facility and date of last inspection?

Yes: No:

Will begin keeping such a list:

- (5) Is there a schedule for future inspections of all facilities?

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Yes: No:

Will begin to keep such a list:

(6) Are inspection reports on file?

Yes: No:

Will begin to keep on file:

(7) Are copies of the inspection reports supplied to each facility?

Yes: No:

Will begin supplying:

(8) Issues examined during inspections?

(a) Recordkeeping review

(b) Sight and sound separation

(c) Secure component

Is there documentation of procedures on file?

Yes: No:

Will be completed:

f. Data Collection:

(1) Agency Responsible:

Name:

(2) Describe Process/Methods:

Documentation: Yes: No:

Will be completed:

(3) Timeline?

Documentation: Yes: No:

Will be completed:

(4) Personnel?

Documentation: Yes: No:

Will be completed:

(5) Verification and timeline?

Documentation: Yes: No:

Will be completed:

(6) Is there a sample admission log?

Does admission/release record include:

- (a) Name of Youth (or initials, numerical identifier):
- (b) Date of Birth:
- (c) Most Serious Alleged Offense:
- (d) Court of Jurisdiction:
- (e) Date and Time of Admission:
- (f) Date and Time of Release:
- (g) Name and Relationship of Person to Whom the Youth was Released:

How can recordkeeping system be changed to include missing items:

(7) Are data collection records on file?

Yes: No:

Will begin:

(8) Are copies of forms used on file?

Yes: No:

Will begin:

- (9) What exceptions are used to calculate violations?

Does the use of each satisfy the statutory and regulatory criteria?

g. Method of Reporting:

- (1) How was information compiled?

Self -Report:

How forwarded to collecting agency:

How Verified:

Action taken if discrepancy found:

On-Site:

How often:

Agency Responsible:

Sampling:

Method used:

Justification:

Actual facilities selected for most recent sample and results:

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Data Projection:

Straightline:

Other (explain):

Explain basis for projection:

(2) Who prepared annual report?

Name:

Relationship to Agency:

(3) Was report used for any other purpose?

h. Violation Procedures:

(1) Are there written policies for reporting violations?

Formal:

Informal:

Documentation: Yes: No:

Will be completed:

(2) Are there written policies concerning investigation of violations?

Documentation: Yes: No:

Will be completed:

(3) Are there clearly defined sanctions for facilities found in violation?

Legislative:

Administrative:

Documentation: Yes: No:

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Will be completed:

- (4) How much time lapses between actual incident and report?

Documentation: Yes: No:

Will be completed:

- (5) Are these policies made available to the facilities?

Yes: No:

Will be made available:

2. FIELD TEST OF MONITORING

a. Auditor's Data Verification at Facilities:

- (1) What data was reviewed for what period of time?
- (a) All admissions on log were compared with admissions reported to the state.
 - (b) Only violations identified on log by auditor were compared to violations reported to the state.
- (2) What reporting errors were discovered?
- (a) Admissions not reported to the state.
 - (b) Discrepancies, e.g., time admitted and released.
 - (c) Violations not reported to the state.
- (3) Quality of records?
- (a) Contain minimum necessary data.
- (4) Related findings?
- (a) Arrest patterns.

4. FINDINGS AND RECOMMENDATIONS

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APPENDIX 4. AUDIT REPORT FORMAT

(1) **Purpose**

(2) **Field Audit Schedule**

- (a) Contacts
- (b) Purpose of each contact

(3) **Monitoring System**

- (a) General description
- (b) Which agencies responsible
- (c) General timetable for monitoring and reporting
- (d) Authority to Monitor

- 1 Discuss legal documents that grant authority
- 2 Assessment of their adequacy

(e) Compatibility of Definitions

- 1 Status and nonoffenders, delinquents
- 2 Secure facilities
- 3 Sight and sound separation
- 4 Valid Court Order
- 5 Deinstitutionalization of Status Offenders and any exceptions used
- 6 Separation and any exceptions used
- 7 Jail Removal and any exceptions used

(f) Identification of Monitoring Universe

- 1 Number of each type of facility
- 2 Which agency identifies

(g) Classification of Monitoring Universe

- 1 Criteria used
- 2 Responsible agencies

(h) Monitoring Period

(i) Inspection of Facilities

- 1 Review of inspection forms
- 2 Responsible agencies
- 3 Timelines

4 What do agencies inspect for

(j) Data Collection/Verification

1 Responsible agencies

2 Timelines

3 Reiterate statutory and/or regulatory exceptions used to calculate violations

(k) Method of Reporting

(l) Violation Procedures

(4) **Other Issues**

(a) Emerging circumstances that may effect the state's compliance monitoring activities.

(b) Questions specific to the audited state.

(5) **Compliance Data Verification**

(a) General description of the type of data reviewed across facilities

(b) Sampling techniques used

(c) General data limitations encountered

(d) Description of each facility, the specific data reviewed, and auditor findings.

(6) **Findings and Recommendations**

(7) **Documents Received (list)**

APPENDIX 5. FREQUENTLY ASKED QUESTIONS ABOUT AUDITING COMPLIANCE MONITORING SYSTEM

1. **"Does the plan provide a timetable for annually monitoring jails and lockups?"**

Comment: The timetable should be as detailed as possible, giving at least the month in the cycle when each task is completed. The timetable should list the times for each major activity: facility identification, classification, on-site inspection, data collection, data verification, data processing and report writing. Latitude should be allowed for states that combine two or more steps into one (some states combine inspection, collection, verification and classification into a single on-site inspection). The agencies or individuals responsible for each step should also be identified.

2. **"Does the plan describe how the universe of facilities will be identified and which agency(s) is responsible for identifying them?"**

Comment: The auditor should request documentation showing how identification is done. At a minimum this includes a list of all juvenile residential facilities, secure and nonsecure, in the state. Further, the documentation should indicate how the list is updated. Ideally, such updating should occur every year or two. Finally, the agency or agencies responsible for this list should be identified.

The auditor should take special interest in the agencies involved in facility identification. The monitoring agency itself is probably not capable of identifying every residential facility in the state. Hence, the auditor should check to see that the agencies with jurisdiction over a given type of residential facility (jails, detention centers, group shelters) cooperate with the monitoring agency.

3. **"Does the plan include the monitoring of both public and private facilities?"**

Comment: This question can be answered by reference to the above item. Many states may overlook private residential facilities when compiling the monitoring universe; this may be the most common violation of the regulations. For this reason, the auditor must be sure that a state monitors private residential facilities.

4. **"Is there a clear indication/description as to how facilities will be classified?"**

Comment: The auditor needs two pieces of information here. First, the state must supply its definition of a secure facility; the definition should be compatible with OJJDP's definition. Second, the state must indicate how this definition is applied. That is, the states must supply documentation indicating whether facilities are classified by a self-report questionnaire or by an on-site visit. If a state uses self-report, it should indicate how it verified this classification.

Some states automatically classify certain facility types as secure (i.e., jails, lockups, and detention centers). The states need not verify these classifications. In general, the auditor

needs to know how the state can guarantee that nonsecure facilities do not have a secure component.

5. **"Is there a description as to what agency(s) will classify facilities?"**

Comment: Supporting documentation here is similar to that required in question 2. The state should supply a discussion of which agency carries out the classification task. Again, the auditor should make sure that the proper agencies are involved in classifying the facilities under their jurisdiction.

6. **"Does the plan detail how facilities will be inspected and which agency(s) will actually do the inspections?"**

Comment: The state should present a timetable of inspections. Ideally, the auditor would want a list showing the dates each residential facility was last inspected. The future schedule for inspections should also be obtained. The documentation should describe the agencies responsible for inspection.

7. **"Does the State indicate what will be reviewed during the inspections?"**

Comment: The inspection must look at three things. It must determine whether a facility is secure; it must check for sight and sound separation between juvenile and adult offenders; and, it must review the facility's recordkeeping system. The state must supply sufficient documentation to demonstrate that each of these objectives is met during the inspection. The state should also supply its definition of sight and sound separation.

The state should indicate that it understands the minimum data collection requirements for monitoring purposes. The state should provide a sample copy of the jail log or detention intake form used in jails and secure facilities throughout the state. The auditor may use this form or log to determine whether the typical facility in a state collects the minimum data.

The facility should keep detailed information on the offense for each admission. This should include actual offense, the offense class (felony, misdemeanor, or status) and the court in which the youth will be tried. Both the state and the auditor must be sure that the proper data are being collected in accordance with the regulation.

8. **"Is there a detailed description of how data will be collected and verified?"**

Comment: For purposes of the audit, the state should supply documentation explaining in as great a detail as possible, the actual mechanics of data collection and verification. Documentation must include the timetable for collecting data and the agency responsible for collecting the data. If data are self-reported, the form used by the facility to report should be presented as well, to double check that adequate monitoring data are being collected. Further, the documentation should indicate how often data are forwarded from the facility.

If data are collected on-site, the documentation should indicate how often on-site visits are made, plus the agency responsible.

Verification problems are more acute with self-report data. The state must describe how verification is done. Most states should verify data through on-site inspections. The audit documentation should include a timetable for verification. The actual verification process must be described as well. At the very least, the reported totals in each monitoring category for each facility should be checked. In addition, the documentation should describe what the monitoring agency does whenever a discrepancy is uncovered during verification between reported and actual totals.

9. **"Does the plan indicate what agency will collect and verify this data?"**

Comment: This information will be found in the documentation required for question #8.

10. **"Does the reporting period cover at least a 6-month period?"**

Comment: A six-month period is the minimum allowed by regulation.

11. **"Does the monitoring include sampling techniques? If yes, is it statistically valid?"**

Comment: Sampling techniques should be seldom used in monitoring, although it has been noted that sampling could probably make the verification progress much more efficient. The design of a sample for monitoring is rather complicated and the issues involved are extensive, thus a simple random sample of facilities is not a valid sample design for monitoring purposes. The auditor should request extensive documentation including the reasoning behind the type of sampling involved, a justification of the technique, the actual facilities selected for the sample, and the results gathered from use of the sample in the most recent year.

Note: This caveat on sampling is not intended to discourage sampling of data from an individual facility, e.g., one month of data from each quarter of the 12-month reporting period.

12. **"Does the monitoring include data projection? If yes, is it statistically valid?"**

Comment: Projection as used in monitoring refers to the estimation of a full year's count on the basis of a partial year's worth of data. Depending on seasonal variations in detention practices in the state, straightline projections may or may not be adequate. Whether straightline or variable rate projections are used, an explanation of the basis for the projection should be provided.

13. **"Does the plan describe barriers in implementing and maintaining a monitoring system?"**

Comment: Self-explanatory.

14. **"Does the plan address realistic approaches to overcome barriers?"**

Comment: It is difficult to evaluate the monitoring obstacles according to any objective criteria. The auditor should request an elaboration of the obstacle section found in the most recent monitoring plan. A discussion of the progress made by the state in overcoming these problems would be useful. It is up to the auditor to determine whether these obstacles are valid and whether adequate progress is being made.

15. **"Does the state describe legislative and/or administrative procedures and/or sanctions for each of the following: (a) receiving violation complaints? (b) investigating violation complaints? (c) acting on violations?"**

Comment: The auditor should request documentation of the violation complaint procedure. The audit should be most interested in whether the following conditions are met:

- (a) Does the agency have formalized channels for receiving violation complaints? Is it likely that every complaint will be reported?
- (b) Are complaints received in a timely manner? That is, are complaints received and investigated relatively soon after the violation has occurred?
- (c) Does the monitoring agency have the authority to correct violations? Does the agency have the authority to close a noncompliant institution?

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