

Disaggregating MIP Data from DSO and/or Jail Removal Violations: Guidance for States

Background:

Based on new guidance from OJJDP, states are **not** required to monitor juveniles accused of or adjudicated for minor in possession (MIP) of alcohol offenses as status offenders for purposes of compliance with the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended. The Act defines a status offense as “an offense that would not be criminal if committed by an adult.” Possession of alcohol is a violation of state law if committed by persons 18¹ to 21 years of age in all states and the District of Columbia and therefore does not meet the definition of a “status offense” as defined by the Act.

OJJDP now considers youth charged with MIP (alcohol) offenses to be accused delinquent offenders. This has three important implications for states: (1) States may hold these youth securely in adult jails and lockups for up to 6 hours, provided they are separated from adult inmates; (2) Facilities that have received approval from OJJDP to use the “Rural Exception” in individual jails and lockups may now hold youth charged with MIP offenses in accordance with Rural Exception requirements; and (3) States may now hold youth charged with or adjudicated for MIP offenses indefinitely in secure detention and correctional facilities for juveniles. It is **always** a violation of the JJDP Act to sentence a juvenile offender to an adult jail or lockup. OJJDP will continue to count youth adjudicated for an MIP offense and sentenced to an adult jail or lockup to be a violation.

Steps to Disaggregate MIP Data:

To ensure that 2012 Formula Grant compliance determinations are made in a timely manner, all states must disaggregate MIP offenses from other violation data and submit this information to OJJDP by June 30, 2011. The disaggregated MIP data should be reported. The following is step-by-step guidance that states can use to prepare (or revise) the compliance data they submit to OJJDP for their 2012 Formula Grant compliance determination:

1. The state should determine, using its compliance data report from 2009 and/or 2010 (whichever the state will use for the FY 2012 Formula Grant compliance determination), whether any violations of DSO and/or Jail Removal were based on youth held for MIP offenses (MIP holds).

Note: *If the state reported no MIP holds as violations of DSO and/or Jail Removal, it must submit a letter to OJJDP stating that the data report submitted did not include MIP violations under DSO and/or Jail Removal guidelines. No further action is needed. OJJDP will use the original report to make its compliance determination for 2012.*

¹ Or the state’s age of full criminal responsibility, if below 18 (e.g., New York age 16, Illinois age 17)

2. If the state reported MIP holds as DSO violations, it should:
 - a. Identify the number of accused alcohol offenders held in adult jails and lockups for any period of time;
 - b. Identify the number of accused alcohol offenders held in juvenile detention or juvenile correctional facilities longer than the 24-hour regulatory exception;
 - c. Identify the number of adjudicated alcohol offenders held in juvenile detention or juvenile correctional facilities; and
 - d. Identify the number of adjudicated alcohol offenders held in adult jails and lockups who were, for example, arrested on a warrant and held pending transportation or bonding. (It is always a violation of the JJDP Act to sentence a juvenile offender to an adult jail or lockup, and data for those juveniles should not be disaggregated.)

3. If the state reported MIP holds as Jail Removal violations, it should:
 - a. Identify the number of accused alcohol offenders held in adult jails and lockups for any period of time, and
 - b. Identify the number of adjudicated alcohol offenders held in adult jails and lockups who were, for example, arrested on a warrant and held pending transportation or bonding. (It is always a violation of the JJDP Act to sentence a juvenile offender to an adult jail or lockup, and data for those juveniles should not be disaggregated.)

Note: The compliance monitoring technical assistance tool will automatically remove from the Jail Removal count those youth counted as violations of both DSO and Jail Removal.

4. To conduct the disaggregation, a state must review the admitting offense data for adult jails, adult lockups, juvenile detention centers, and juvenile correctional facilities to determine which juveniles fall into the categories listed in 2 a–d and 3 a and b.

5. All states that reported MIP holds as violations of DSO and/or Jail Removal in the data report they submitted for their 2012 Formula Grant compliance determination must revise and resubmit their reports to OJJDP by June 30, 2011. This is the case even if disaggregating the MIP data does not substantially change the DSO and/or Jail Removal *de minimis* rate of compliance. A revised report is required because OJJDP compares compliance violation rates year to year.

6. The deadline for submission to OJJDP is June 30, 2011.

For More Information, Contact:

Jeff Slowikowski, Acting Administrator
jeff.slowikowski@usdoj.gov
202-307-5911

Elissa Rumsey, Compliance Monitoring Coord.
elissa.rumsey@usdoj.gov
202-616-9279

Office of Juvenile Justice and Delinquency Prevention
www.ojjdp.gov