



2011

Montana's Plan to Monitor Compliance with the Youth Court Act and the JJDP Act



MBCC

State of Montana

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Federal Law:

Juvenile Justice and Delinquency Prevention Act of 1974 as amended in 2002

Federal Regulation:

OJJDP Formula Grants Consolidated Regulation, 28, CFR, Part 31

Related Federal Guidance:

Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended

Related Montana Code Annotated (MCA):

Title 41, Chapter 5, MT Youth Court Act

Introduction:

Montana Code Annotated (MCA) 41-5-1903 mandates that counties, as a condition of receiving funds under MCA 41-5-1902, shall comply or substantially comply with state law and policies contained in the Montana Youth Court Act concerning the detention and placement of youth. The Montana Board of Crime Control shall periodically review and monitor counties receiving grants under 41-5-1902 to assure compliance or substantial compliance with the Montana Youth Court Act. If, after notice and fair hearing, the Board determines that a county is not in compliance or substantial compliance with the Montana Youth Court Act, the Board shall terminate the grant to the county. MCA 41-5-1907 Directs the Board to administer federal funds available under section 222 of the federal Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended (42 U.S.C. 5632), in compliance with the requirements the JJDP Act as amended.

The Federal Juvenile Justice and Delinquency Prevention (JJDP) Act, through the 2002 reauthorization, establishes four core requirements with which participating states and territories must comply to receive Title II Formula grants and the Title V Community Prevention grants under the JJDP Act:

- Deinstitutionalization of status and non-offenders,
- No contact between adult and youth offenders in institutions,
- Removal of juveniles from adult jails and lockups and
- Reduction of disproportionate minority contact with the juvenile justice system.

As a participating state, Montana must develop a plan to implement and maintain compliance with the core requirements of the JJDP Act. The plan must describe:

1. Barriers, if any, faced in implementing and maintaining compliance with the core requirements and the state and local strategies to overcome such barriers. (Section 100)
2. The legislative or administrative authority that has been established for the state to: receive, investigate, and respond to reports of compliance violations. (Section 200)
3. Detailed procedures for performing monitoring tasks that include identification of the agency responsible for each task. (Section 300)

The purpose of this publication is to document Montana's plan to implement and maintain compliance with the most restrictive requirements of the Montana Youth Court Act or the JJDP Act as they pertain to youth in secure custody.

If you have questions about this publication, please call the Juvenile Justice Planner at (406) 444-2632. TTY for the hearing impaired, call (406) 444-7099

Section 100: Identify and Address Barriers to Compliance

Statement of Purpose:

To ensure that emerging barriers to maintaining compliance with the core requirements of the JJDP Act and Youth Court Act are identified and state and local strategies developed to overcome them.

Policy:

In order to identify and address potential barriers to compliance, MBCC as the designated Statewide Planning Agency (SPA) per the JJDP Act will monitor:

1. Expiration of the Executive Order that creates the Youth Justice Advisory Council (YJC) and identifies it as the State Advisory Group (SAG) under the JJDP Act;
2. New state legislation that proposes to make the MT Youth Court Act less restrictive than the federal JJDP Act or changes MBCC's authority to monitor compliance with the Youth Court and JJDP Act;
3. New federal legislation that proposes to make the JJDP Act more restrictive than the MT Youth Court Act;
4. Local facilities found in violation of the JJDP Act for appropriate response to the training and technical assistance provided to prevent further violations;
5. Staff implementation of the monitoring work plan to ensure that facilities are monitored and allegations of violations of the JJDP Act are investigated; and
6. Changes to resources allocated to the monitoring system that could have a negative impact on its effectiveness.

Procedures:

The Executive Director of the Montana Board of Crime Control (MBCC) will:

1. Biennially, in January of odd numbered years, advocate for the renewal of the Executive Order by the Governor that continues the YJC and provide copies of the renewed Executive Order to the Community Justice Bureau Chief.

The Community Justice Bureau Chief will:

1. Assign staff as needed to monitor, list and track bills, both state and federal, introduced during regular and special legislative sessions that could impact the State's compliance with the JJDP Act.
2. Assign staff as needed to provide informational testimony for identified bills as to the nature of the potential impact on State compliance with the JJDP Act at federal and state legislative hearings.
3. Provide the Juvenile Justice Planner with:

- a. Copies of introduced bills that threaten the State's compliance with the JJDP Act as they are identified;
 - b. Schedules of federal and state legislative hearings on identified bills;
 - c. Copies of updated Executive Orders renewing the YJC;
 - d. Copies of compliance letters as they are received from OJJDP
 - e. Copies of potential changes in resources that impact regional juvenile detention grants, monitoring, data collection, and reporting of compliance with the JJDP Act as changes are identified
4. Supervise the JJ Planner and JJ Specialist's development of written recommendations for state and local strategies to overcome identified barriers.

The Juvenile Justice Planner will:

1. Report to the Community Justice Bureau Chief any facility that has more than a few unavoidable violations that have not been resolved by the provision of training and technical assistance.
2. Work with the Community Bureau Chief and the Juvenile Justice Specialist to develop written recommendations to be submitted to the YJC for consideration for state and local strategies to overcome barriers as they are identified. Written plans may include, but are not limited to the following activities:
 - a. Regional training workshops for those agencies involved in monitoring or implementation of the JJDP and Youth Court Acts.
 - b. Administrative meetings with those agencies involved in monitoring or implementation of the JJDP and Youth Court Acts.
 - c. Enforcement of the JJDP Act where it is more restrictive than the Youth Court Act while the SAG pursues state legislation that is as or more restrictive than the JJDP Act;
 - d. Local coordination, i.e., intensive problem solving and planning for agencies requiring assistance to realize compliance with the more restrictive of the JJDP and Youth Court Acts.

Section 200: Insure Legislative and Administrative Authority

Statement of Purpose:

To insure MBCC's legal authority is sufficiently broad to require onsite inspection of each facility that could hold youth as the result of public authority for purposes of:

1. Facility classification;
2. Verification of facility records to reported data;
3. Review of processes and areas used to process and hold youth: in custody, pending release to parents/guardian or transfer to another facility.
4. Enforce sanctions when violations are not corrected.

Related State Statutes:

MCA 41-5-103(23) provides MBCC the authority to approve holdover facilities. MCA 41-5-1903 provides MBCC the authority to monitor compliance with the Youth Court Act and, after notice and a fair hearing, deny detention grant funding to counties not in substantial compliance. MCA 41-5-1907 & 1908 provide MBCC the authority to administer Title II Formula grant funds in compliance with the requirements of the JJDP Act of 1974 as amended and make rules to carry out those responsibilities.

Policy:

Effective monitoring and enforcement can only be fully implemented when the agency's legal responsibility is defined in clear terms and is known to all parties.

MBCC will provide the designated monitor(s) with a photo identification card that identifies the monitor as a representative of MBCC and as such:

1. Should be permitted to review records containing detention information;
2. Will respect the confidential nature of any information obtained during the course of the monitoring visit, including the physical plant, facility policies and procedures; and
3. Will not knowingly record or divulge information, which might identify a specific child except as may be required to protect the child.

Procedures:

1. The monitor(s) will make available during all on-site inspections a photo identification card that clearly defines them as a representative of MBCC.
2. The monitor(s) report directly to the Juvenile Justice Planner and MBCC retains accountability for the overall performance of the monitoring tasks.

Section 300: Monitoring Tasks and Responsibilities

Statement of Purpose:

To describe the monitoring tasks and identify responsibilities.

Policy:

Annually, in February, MBCC's Community Justice Bureau Chief and the Juvenile Justice Planner, Juvenile Justice Specialist, Performance Compliance Bureau Chief and the designated monitor(s), will review the monitoring tasks as outlined in this policy to develop a Compliance Monitoring Work Plan and monitoring contract for the upcoming state fiscal year for inclusion in the Title II application to OJJDP due March 31st of each year.

Procedures:

The Juvenile Justice Planner will:

1. Annually in February, review the monitoring tasks as outlined in this policy with the designated compliance monitor (s) and prepare a Compliance Monitoring Work Plan to submit to the Community Justice Bureau Chief, Juvenile Justice Specialist, and the Performance Compliance Bureau Chief for input and review.
2. Coordinate the activities of the designated MBCC staff and supervise monitoring services contracts to accomplish the monitoring tasks. The monitoring tasks, at a minimum, will include the following Sections in this manual:
 - a. Section 400 – definition of terms.
 - b. Section 401 – identification of facilities
 - c. Section 402 – classification of facilities
 - d. Section 403 - monitoring standards.
 - e. Section 404 – data collection.
 - f. Section 405 – onsite data verification and facility inspection.
 - g. Section 406 – investigation of violations
 - h. Section 407 – reporting to OJJDP
 - i. Section 408 – training and technical assistance for facilities.
 - j. Section 409 – maintenance of the monitoring plan.

Section 400: Definition of Terms

Statement of Purpose:

To operate under definitions compatible with those found in the JJDP Act and Formula Grant Regulations.

Policy:

Mbcc will adopt and follow OJJDP definitions for monitoring. The United States Code (U. S. C.) or the Federal Register, 28 CFR, Part 31 §31.303, provides the definitions under the JJDP Act. Regulations have not been formally revised for the changes to the Act in 2002. Until they are, existing regulation, OJJDP Guidance Manual definitions¹ will be used.

Procedures:

The following definitions will be used. Definitions from the Formula Grant Regulations, JJDP Act, and the OJJDP Guidance Manual will take precedence over state definitions and will be used for monitoring purposes. Related Youth Court Act Definitions, if any, are referenced in blue.

1. **Adjudicated youth²** - a youth that has been found under formal proceedings by a judge to have committed an offense. [MCA 41-5-103\(11\) Delinquent youth](#)
2. **Adult jail** – a locked facility, administered by state, county or local law enforcement and corrections agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year (28 CFR 31.304(m)). [MCA 41-4-103\(23\) Jail](#)
3. **Adult Lockup** – similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature that does not hold persons after they have been formally charged (28 CFR 31.304(n)) [MCA 41-5-103\(23\) Jail](#).
4. **Civil-type juvenile offender** – a juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include non-criminal traffic violations and non-criminal fish and game violations (page 49, OJJDP Guidance Manual)³. [MCA 41-4-103\(50\) Youth in need of intervention](#)

¹ All federal references, including the Guidance Manual are located online on OJJDP's web page at: <http://www.ojjdp.gov/compliance/index.html>

² A youth committed to the Department of Corrections, released on parole and subsequently picked up and held for violation of a parole (aftercare) agreement under 52-1-128 is considered an adjudicated youth and may not be securely held in an adult jail, lockup, or unapproved collocated facility for any length of time unless charged in Youth Court with a new delinquent offense(s).

³ The Montana Youth Court Act provides that only alleged delinquent youth and youth charged with offenses listed under MCA 41-5-206 may be detained. Only youth under the jurisdiction of Youth Court

5. **Collocated facility** – a collocated facility is a juvenile facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered “related” when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water and sewer) (28 CFR 31.303(d)3(i)(A)). Each of the following four criteria must be met in order to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:
1. The facility must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and incarcerated adults in the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas; and
 2. The facility must have separate juvenile and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility that provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. Time phasing of common use non-residential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns; and
 3. The facility must have separate staff for the juvenile and adult populations, including management, security, and direct care staff. Staff providing specialized services, (e.g., medical care, food service, laundry, maintenance, and engineering) who are not normally in contact with detainees or whose infrequent contacts occur under conditions or separation of juveniles and adults can serve both populations (subject to State standards or licensing requirements). The day-to-day management, security, and direct care functions of the juvenile detention center must be vested in a totally separate staff, dedicated solely to the juvenile population within the collocated facilities; and
 4. In States that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards on the same basis as a freestanding juvenile detention center, and be licensed as appropriate. If there are no State standards or licensing requirements, OJJDP encourages States to establish administrative

may be found delinquent, traffic offenses and fish and game offenses are not included as offenses for which a youth may be detained. Therefore in Montana even criminal traffic and criminal fish and game offenses are considered civil-type offenses as regards the detention of youth. [MCA 41-5-341](#), [41-5-206](#), and [41-5-103\(11\)](#)

requirements that authorize the State to review the facility's physical plant, staffing patterns, and programs in order to approve the collocated facility based on prevailing national juvenile detention standards.

The State must determine that the four criteria are fully met. It is incumbent upon the State to make the determination through an onsite facility (or full construction and operations plan review and, through the exercise of its oversight responsibility, to ensure that the separate character of the juvenile detention facility is maintained by continuing to fully meet the four criteria set forth above. [MCA 41-4-103\(49\)\(a\)\(ii\)](#)

- 6. Contact** – any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders. (28 CFR 31.303(d)). [MCA 41-5-349\(d\)\(d\) limitations on placement of youth in jails or other adult detention facility.](#)
- 7. Court Holding facility** – a court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings (pate 53 OJJDP Guidance Manual. (**Caution:** Don't confuse this with the non-secure "Holdover" program defined in MCA 41-5-1-3(23) of the Youth Court Act.) [MCA 41-5-103\(15\) Detention Facility.](#)
- 8. Criminal Offender** - reference definitions for **Other individuals accused or convicted of criminal offenses below.**
- 9. Criminal-type juvenile offender** – a juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 41.304(g)). A juvenile held for criminal contempt remains a status offender unless: 1) the offense done by the offender that resulted in the criminal contempt charge would have been a crime, other than contempt, if done by an adult; or 2) the court order violated by the youth was issued by a process that meets the federal definition of a valid court order (VCO). As status offenders, juveniles who violate a VCO cannot be held in an adult jail or lockup for any length of time.⁴. Note: Montana's informal and formal court proceedings do not meet the requirements of the federal VCO process and MCA 41-5-1431(3) specifically disallows any disposition for violation of probation that was not available in the original case. [MCA 41-5-103\(11\) delinquent offender](#)

⁴OJJDP Guidance Manual, page 22

- 10. Delayed egress device** – a device that precludes the use of exits for a predetermined period of time.⁵
- 11. Delinquent offender** – a juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 41.304(g)). A juvenile held for criminal contempt remains a status offender unless: 1) the offense done by the offender that resulted in the criminal contempt charge would have been a crime, other than contempt, if done by an adult; or 2) the court order violated by the youth was issued by a process that meets the federal definition of a valid court order (VCO). As status offenders, juveniles who violate a VCO cannot be held in an adult jail or lockup for any length of time.⁶ Note: Montana's informal and formal court proceedings do not meet the requirements of the federal VCO process and MCA 41-5-1431(3) specifically disallows any disposition for violation of probation that was not available in the original case. [MCA 41-5-103\(11\) delinquent offender](#)
- 12. Facility** – a place, an institution, a building or part thereof, set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies (28 CFR 31.304(c)).
- 13. Holdover program** – a room, office, building, or other place approved by the Board of Crime Control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility. The term does not include a jail. [MCA 41-5-103\(23\) Holdover](#)
- 14. Juvenile correctional facility** – a public or private, physically secure residential facility under contract with the Department of Corrections and operated solely for the purpose of housing adjudicated delinquent youth. [MCA 41-5-103\(5\) Correctional facility](#)
- 15. Juvenile offender** – 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 (28 CFR 31.304(f)).
- 16. Juvenile who is accused of having committed an offense** - a juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court (28 CFR 31.304(d))

⁵ IBID, page 49

⁶OJJDP Guidance Manual, page 22

17. Juvenile who is adjudicated as having committed an offense -a juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender (28 CFR 31.304(e)).

18. Lawful custody – the exercise of care, supervision, and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree (28 CFR 31.304(j)). [MCA 41-5-321 & 322 Taking into and release from custody.](#)

19. Non-offender – 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 juveniles (28 CFR 31.304 (i)) [MCA 41-3-102\(29\) Youth in need of care](#)

20. Non-secure custody – a juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility, but not be in a secure detention or confinement status. The November 2, 1988, Federal Register announcement, Policy Guidance for Non-secure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy, states that the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

1. The area(s) where the juvenile is held is an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designated, set aside, or used as a secure detention area or is not part of such an area, or if a secure area, is used only for processing purposes;
2. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
3. The use of the area(s) is limited to providing non-secure custody only long enough for and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
4. In no event can the area be designed or intended to be used for residential purposes; and
5. The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

In addition, a juvenile placed in the following situations would be considered in a non-secure status:

1. If certain criteria are met, a juvenile handcuffed to a non-stationary object; handcuffing techniques that do not involve cuffing rails or other stationary objects are considered non-secure if the five criteria above are adhered to.

2. If certain criteria are met, a juvenile being processed through a secure booking area: where a secure booking area is all that is available, and continuous visual supervision is provided throughout the booking process, and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with state law and or judicial rules), the juvenile is not considered to be in a secure detention status. Continued non-secure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
3. A juvenile placed in a secure police car for transportation: the JJDP Act applies to secure detention facilities and secure correctional facilities, so a juvenile placed in a secure police car for transportation would be in a non-secure status.
4. A juvenile placed in a non-secure runaway shelter, but prevented from leaving due to staff restricting access to exits: a facility may be non-secure if physical restriction of movement or activity is provided solely through facility staff.

21. Other individual accused of having committed a criminal offense – An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction (28 DFR 31.304(k)). [MCA 41-5-103\(9\) criminally convicted youth \(accused would be after transfer hearing under 41-5-206 and case is retained in district court\)](#).

22. Other individual convicted of a criminal offense – An individual, adult or juvenile who has been convicted of a criminal offense by a court exercising criminal jurisdiction (28 CFR 31.304(l)). [MCA 41-5-103\(9\) Criminally convicted youth](#)

23. Private agency – a private non-profit agency, organization or institution is:

1. Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; or
2. Any other agency, organization or institution which operates primarily for scientific, education, charitable service or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax exempt under the [provisions of section 501(c)(3) of the 1954 Internal Revenue Code (28 DFR 31.304(a)).

24. Public agency – means any state, unit of local government, combination of such states or units, or any department, agency or instrumentality of the foregoing (42 USC 5603 Sec. 103(11)).

25. Secure custody – as used to define a detention or correctional facility, this term 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 (28 CFR 31.304 (b)).

26. Secure juvenile detention center or correctional facility – any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders (28 CFR 31.303 (n)(f)(2)). Many states use the term “training school” for juvenile correctional facilities. [MCA 41-5-103\(49\) Youth detention facility](#) and [MCA 41-5-103\(40\) State youth correctional facility](#).

27. Staff secure facility – a residential facility which:

1. Does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein;
2. May establish reasonable rules restricting entrance to and egress from the facility; and
3. In which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. [MCA 41-4-103\(37\) Shelter care](#) [MCA 41-5-103\(38\) Shelter care facility](#) and [MCA 52-2-602\(11\) Youth care facility](#).

28. Stationary – not capable of being moved by a juvenile. i.e. four or five point restraint chairs or tables, being cuffed to a heavy oak desk, etc.

29. Status offender – a juvenile offender who has been charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 31.304 (h)). A juvenile held for criminal contempt remains a status offender unless:

1. The offense done by the offender that resulted in the criminal contempt charge would have been a crime other than contempt if done by an adult; or 2) the court order violated by the youth was issued by a process that meets the federal definition of a valid court order (VCO). As status offenders, juveniles who violate a VCO cannot be held in an adult jail or lockup for any length of time⁷. The following are examples of status offenses:
 - Truancy
 - Violations of curfew
 - Unruly or ungovernable
 - Runaway
 - Under age possession and/or consumption of tobacco products

⁷ OJJDP Guidance Manual , page 22

- Underage possession and/or consumption of alcohol. This offense is always considered a status offense, even though State or local law may consider it a criminal-type offense. [MCA 41-5-103\(50\) Youth in need of intervention.](#)

30. Valid Court Order (VCO) – a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a 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 of the United States (28 CFR 31.304(o)). (Reference “Summary of the Valid Court Order (VCO) Process” attached and second paragraph page 23 federal guidelines manual re: state common laws and use of traditional contempt). [MCA 41-5-1431 \(3\) Probation revocation disposition; and 41-5-1512 \(o\)\(i\) Disposition of youth in need of intervention or youth who violate consent adjustments](#) (*Note: Montana statutes are more restrictive than the JJDP Act in that they restrict judges to dispositions that were available in the original offense.*)

Section 401: Identification of Facilities

Statement of Purpose:

To identify facilities in which youth may be placed as the result of public authority.

State Statute:

The Youth Court Act (Reference MCA 41-5-322) limits the placement of youth as the result of law enforcement and courts to:

1. Shelter care placements (Reference MCA 41-5-103(37) & (38), 41-5-342, 41-5-347, 52-2-602);
2. Secure juvenile and collocated detention and juvenile correctional facilities (Reference MCA 41-5-341, 41-5-348, 41-5-103(39), (49) & (35)); and
3. Adult Jails and Lockups (Reference MCA 41-5-349 & 350)

Procedures:

1. Annually, on or before 3/30 of each calendar year the Juvenile Justice Planner will query all entities in the current monitoring universe.
2. The annual query will request verification that the entity:
 - a. Either operates or does not operate a facility that meets the definition of a secure facility.
 - b. If they do operate a secure facility:
 - i. assures that they have not securely held any youth; or
 - ii. verifies that they have reported all youth securely held during the calendar year to the Juvenile Detention Reporting System and the report generated from that database for their facility is correct; or
 - iii. if the report generated is incorrect they have indicated the changes required to the report; or
 - iv. if they have not reported youth securely held to the database, they are attaching a form G to report all youth securely held during the calendar year.
3. During onsite visits, the designated monitor will query in the facility's monitoring report to determine if other facilities exist in their county used by peace officers to place youth.
4. During onsite visits, the designated monitor will query sheriffs in counties that don't operate secure facilities to determine the practices used for the handling and placement of youth in their custody and document their responses in the monitoring report. (Reference Section 405 of this Manual)

5. The facility table in the Juvenile Detention Reporting (JDR) System will be updated as needed with the results of the annual query and onsite monitoring reports.

Section 402: Facility Classification

Statement of Purpose:

To set forth the process to classify facilities and identify the Monitoring Universe.

Related State Statutes:

Montana Code Annotated (MCA) 52-2-621 through 623 assigns monitoring, licensing and regulatory authority for all non-secure juvenile residential facilities and secure residential hospitals to the Department of Public Health and Human Services (DPHHS).

MCA 41-5-103(35), (39) and (49), assigns licensing and regulatory authority for secure juvenile detention and collocated facilities to the Department of Corrections.

State statute does not provide for the independent monitoring of correctional facilities or licensing or monitoring of adult jails or lockups.

Federal Guidance:

“States must determine whether or not a facility in which juveniles are detained or confined is an adult jail, adult lockup, or a secure juvenile detention center or correctional facility. The JJDP Act prohibits the secure custody of juveniles in adult jails and lockups. Juvenile facilities collocated with adult facilities are considered adult jails or lockups absent compliance with the four criteria listed in this section. A facility adhering to the four criteria would qualify as a separate secure juvenile detention center or correctional facility for the purpose of monitoring compliance with DSO, jail removal, and separation.”⁸

Policy:

The designated monitor(s), during on-site monitoring visits, will review and classify and/or reclassify facilities according to the definitions listed in policy 400 for this manual. Any collocated facilities that do not meet the federal criteria for a collocated facility will be classified as an adult jail or an adult lockup.

There will be four categories for classification of each facility:

1. Is it public or private?
2. Is it a juvenile facility, adult facility or used for both?
3. Is it secure or non-secure?
4. Is it an MSA or a Non-MSA?

⁸ IBID, page 26

Procedures:

Facilities that meet the following classification criteria will be *included* in the monitoring universe:

1. All staff-secure juvenile programs where youth may be placed as the result of public authority, including law enforcement offices that do not administer an adult jail, lockup, or collocated facility.
2. All secure juvenile correctional facilities.
3. All secure juvenile detention facilities
4. All secure collocated facilities
5. All secure adult jails
6. All secure adult lockups
7. All secure court holdovers
8. All secure adult correctional facilities.

Facilities that are not physically designed to maintain sight and sound separation of juveniles from incarcerated adults may be found to provide sight and sound separation through a process *if that process is documented in the facility's written policy and their staff is found by the designated monitor during his/her onsite visit to be familiar with and practice that process.*

Facilities that meet the following classification criteria and subject to DPHHS rules and monitoring will be *excluded* from MBCC's monitoring universe:

1. All staff secure facilities defined in MCA 52-2-602(11) Youth care facility, regulated and monitored by the Department of Public Health and Human Services per MCA 52-2-621 through 623.
2. All secure residential treatment centers regulated and monitored by DPHHS with Joint Accreditation of Hospitals (JACo). MCA 41-5-1504 requires that no youth may be placed in a secure mental health facility unless they are suffering from a mental disorder as defined in MCA 53-21-102 and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 119.

Section 403: MT Monitoring Standards

Statement of Purpose:

Since Montana's Youth Court Act of 2005 is, in some instances, more restrictive than the JJDP Act, and since some core requirements of the JJDP Act are more restrictive than the Youth Court Act, it is necessary to provide the monitoring universe with clear information on what constitutes compliance or violation when handling youth in custody.

Policy:

MBCC will develop clear monitoring standards for law enforcement departments and each facility type within the monitoring universe. These standards will be based upon the Montana Youth Court Act, MBCC rules, the JJDP Act, federal regulations, and guidance, whichever is more restrictive. Definitions set forth in Section 400 will be used. These standards will be most useful if freely disseminated in the field.

Record Keeping:

All facilities in the monitoring universe will be responsible for maintaining data on all youth in custody. The following data will be maintained on all youth in either secure or non-secure custody:

- Name
- ID number⁹ (this number may be obtained from juvenile court probation, don't delay as records are sealed on the youth's 18th birthday)
- Month, day, and year of birth
- Gender
- Self reported race/ethnicity (use federal census categories)
- Jurisdiction (Department of Corrections, youth court, adult court, out-of state (interstate compact), federal Immigration and Customs Enforcement (ICE) (formerly INS), federal Bureau of Indian Affairs (BIA), federal – other, or tribal court)
- County or tribe of the MT jurisdiction placing the youth in custody
- MCA code for most serious offense charged, if criminal contempt/probation violation (MCA 45-7-309), include original offense.¹⁰
- Date and time youth was taken into custody

⁹ For Montana youth under the jurisdiction of MT Youth Courts or the Department of Corrections, use the JCATS ID number. For youth under the jurisdiction of the Out of State Court, Federal Court, or Tribal Court, use an ID number of your choosing that can link the information reported to MBCC with the appropriate youth's documents on file in your facility.

¹⁰ If youth not under the jurisdiction of MT District Youth Courts or the MT Department of Corrections, use the MCA equivalents. If no equivalents, call the Juvenile Justice Planner at (406) 444-2632 for help.

- Date and time youth was released from custody
- Date and time youth received a probable cause hearing To whom the child was released (e.g. parent/guardian, transferred to other detention facility, transferred to treatment, etc.)
- If adjudicated youth: date and time committed to Department of Corrections (DOC)
- If accused criminal offender: date and time of hearing where youth was transferred to adult court.
- If adjudicated criminal offender: date and time committed to DOC as an adult.

Data Reporting:

All facilities included in the monitoring universe will report all youth securely held on a monthly basis as follows:

- **Adult jails, lockups and non-approved collocated facilities and juvenile correctional facilities** will report data using the reporting form found on our website at: <http://mbcc.mt.gov/JuvenileJustice/Compliance/Compliance.asp> and:
 - Mailing it to: Juvenile Justice Planner, MBCC, PO Box 201408, Helena, MT 59620-1408;
 - Or emailing it to: MBCC@mt.gov.
- **Licensed juvenile detention and collocated facilities will report all youth securely held by one of the following methods:**
 - Inputting data into the RiteTrack© Unified Case Management System (UCMS) where it will be automatically imported to the RiteTrack© Juvenile Detention Reporting System (JDRS); or
 - Inputting data directly into the RiteTrack© Juvenile Detention Reporting System (JDRS); or
 - Emailing a data extract in compliance with JDRS requirements to MBCC@mt.gov to be uploaded to RiteTrack© JDRS by MBCC; or
 - Using the reporting form found on our website at: <http://mbcc.mt.gov/JuvenileJustice/Compliance/Compliance.asp> and:
 - Mailing it to Juvenile Justice Planner, MBCC, PO Box 201408, Helena, MT 59620-1408;
 - Or emailing it to MBCC@mt.gov.

Compliance violations:

For licensed juvenile detention and collocated detention facilities:

1. Unless subject to the Interstate Compact Rules as administered by the state, any civil, status or non-offender held for any length of time in secure status.

2. Any accused delinquent offender held in a secure status for more than 24 hours, excluding weekends and holidays, without a probable cause hearing in accordance with MCA 41-4-332.
3. Federal Immigrations and Customs Enforcement (ICE) youth wards held for any length of time in a secure status.
4. Any youth that may have had sustained sight or sound contact with an adult offender.

For adult jails or lockups *in a metropolitan statistical area (MSA) or non-MSA with alternative placements available:*

1. Any non-offender, status, or civil offender placed in a secure or residential room or cell or cuffed to a stationary object.
2. Any juvenile occupying the booking area at the same time as an incarcerated adult.
3. Any accused delinquent offender securely held over 6 hours from the time they enter a secure custody status.
4. Any adjudicated delinquent offender held for any period of time.
5. Any juvenile in secure custody status that has physical or sustained sight or sound contact with an incarcerated adult.
6. Any juvenile held for six hour or less for punitive reasons.

For adult jails or lockups in a *non-MSA without alternative placements available:*

1. Any juvenile status, civil or non-offender is placed in a secure or residential room or cell or is cuffed to a stationary object.
2. A juvenile and an incarcerated adult occupy the booking area at the same time.
3. In an adult jail or lockup in a Metropolitan Statistical Area (MSA): any accused delinquent offender securely held over 6 hours and released to parents/guardian without a probable cause hearing in accordance with MCA 41-5-332.
4. In a an adult jail or lockup in a Non-Metropolitan Statistical Area (non-MSA) any accused delinquent offender securely held over 24 hours without a probable cause hearing in accordance with MCA 41-5-332.
5. Any adjudicated delinquent offender securely held for any period of time.
6. Any juvenile in secure custody status, other than one adjudicated as a criminal offender in District Court, has any physical or sustained sigh or sound contact with an incarcerated adult.
7. Any juvenile securely held for punitive reasons or as a disposition for a consent adjustment or consent decree.

For Non-secure holdover facilities approved by MBCC:

Inadequate youth records maintenance.

Procedures:

1. MBCC will make available the content of this policy to all law enforcement departments and facilities in the monitoring universe prior to receiving their first onsite inspection and prior to being subject to a violation procedure.
2. The content of this policy will be posted and available for download from the MBCC Juvenile Justice web page by anyone.
3. The MBCC designated compliance monitor(s) and the MBCC Juvenile Justice Planner will be available to anyone desiring additional information or clarification on any of the sections of the law
4. The Community Justice Bureau Administrative Assistant will:
 - a. input all data reported on reporting form G to the JDRS database for the appropriate facility on a monthly basis and then email a copy of the JDRS detention report and violation report, if any violations, to the facility; and
 - b. annually, after the 2nd week in January, print out a juvenile detention report and violation report for the calendar year for each facility to attach to the annual verification letter described in Section 403.

Section 404: Data Collection and Verification

Statement of Purpose:

It is necessary to collect and verify data that will be used as the basis of the Annual Compliance Report to the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

Policy: Annually, based on a calendar year:

The Juvenile Justice Planner will:

1. Review the onsite monitoring reports for each facility monitored during the calendar year, entering the date of the site visit into the JDRS database and updating facility classification and other facility data as appropriate.
2. Follow-up with the designated monitor(s) as needed to clarify any questions raised by the reports.
3. Annually after the 2nd week in January of the following year, work with the Compliance Justice Bureau (CJB) Administrative Assistant to send a verification letter to each facility in the monitoring universe, along with a copy of the data reported and entered into the JDRS database for the facility for the calendar year, requesting that each facility verify that:
 - o They did not hold any youth securely during the calendar year; or
 - o They held youth securely and the JDRS Report accurately reflects detentions reported for the calendar year; or
 - o Held youth securely and the JDRS Report does not accurately reflect detentions reported for the calendar year and indicates needed corrections to the report.
4. Upon receipt of the signed verification letter from each facility, insure that the appropriate boxes are checked for “Reporting” and “Holding” in the JDRS database for that facility.
5. Maintain a file for each facility in the monitoring universe filed by count/tribe. The file will include:
 - a. Onsite monitoring forms and attachments
 - b. Inspection notes
 - c. Violation reports
 - d. Correspondence
 - e. Facility floor plan
6. Maintain a file of OJJDP Compliance Reports. The file will include:
 - a. Report to OJJDP and attachments
 - b. Data verification letters for the reporting year

- c. Trainings conducted during the reporting year
- d. Calendar of holidays and weekends for the reporting year
- e. Other supporting documentation for the report.

The CJB Administrative Assistant will:

1. Enter detentions reported on reporting form G to the JDRS database for the appropriate facility;
2. After the 2nd week in January of the following calendar year, work with the Juvenile Justice Planner to send out the verification letters to each facility in the monitoring universe along with a copy of their detentions reported to date for the prior calendar year;
3. Maintain a log of all verification letters received;
4. Follow-up with the facilities until all verification letters are signed and returned;
5. Enter any additional detentions or corrections reported in the letters; and
6. Submit the verification letters to the JJ Planner for entry into the JDRS system.

The MBCC designated monitor(s), during onsite visits will:

1. Fully complete the required monitoring forms for each onsite visit (Reference Section 405 – On-site Monitoring);
2. Review 100% of the facility's log of youth detained for the last 12 months in adult jails, lockups, non-approved collocated facilities, adult correctional facilities and the Riverside Girl's Correctional facility to the JDRS database to ensure that all youth detained and any attendant violations were accurately reported;
3. Trace 10% of randomly selected facility records for youth detained in the last 12 months in licensed juvenile detention and collocated facilities to the JDRS database to ensure that all youth detained and any attendant were accurately reported.
4. Verify that logs with the minimum information on youth held non-securely are being maintained in accordance with the reporting requirements of Section 403.

Section 405: Onsite Monitoring

Statement of Purpose:

To provide a process for onsite review of facilities in the monitoring universe to:

1. Classify or update the classification of facilities (Reference Section 402);
2. Inspect physical areas and conduct staff interviews to determine if youth in custody are being handled in compliance with statutory and regulatory requirements (Reference Section 403);
3. Ensure that adequate data and supporting documentation are maintained to determine compliance with the statutory requirements and to verify self-reported data (Reference Section 404); and
4. Conduct investigations of alleged violations (Reference Section 405).

Policy:

The inspection process will: include a means to standardize the review process among facilities of the same type; document the results of the review process and compliance with the published standards for the type of facility being monitored; provide an original report to MBCC and a copy to the entity that was the subject of the onsite inspection.

Secure adult correctional facilities, law enforcement departments (whether they operate a secure adult jail or lockup or not) and non-secure juvenile holdover programs as defined in MCA 41-5-103(23) will be monitored at least once in every three years.

Juvenile correctional facilities and licensed juvenile detention and colocated facilities will be monitored at least once each year.

Procedures:

1. An onsite visit without prior notice to the facility may be made to investigate an allegation of a compliance violation or as follow-up to a documented compliance violation. Otherwise, 10 days prior to a regular onsite inspection, the MBCC designated monitor(s) will notify the juvenile probation officer, facility administrator, and if it is a county owned facility, the county commissioners, of the date and time of the inspection.
2. The MBCC designated monitor(s) will complete a monitoring form according to the facility type as follows:
 - a. For all law enforcement departments except those that operate an approved (licensed) colocated detention facility, *Form A – Law Enforcement Departments Monitoring Form*;

- b. For all juvenile correctional facilities and licensed (approved) collocated and juvenile detention facilities, *Form B – Juvenile Detention/Correctional Facilities Monitoring Form*; and
- c. For all Juvenile Holdover Programs, *Form C – Juvenile Holdover Programs Monitoring Form*.

One copy of the form and applicable attachments will be given to the facility administrator, one will be retained for the designated monitor's records, and the original signed copy will be given to the Juvenile Justice Planner to review and place in the appropriate facility file located in the Planner's office at MBCC.

- 3. A thorough record keeping review will be conducted to ensure all facilities keep records consistent with state and federal OJJDP Rules and Regulations (Reference Sections 403 &404).
- 4. If the facility is a licensed collocated facility or an adult jail or lockup that holds adults and juveniles, then a *Form D – Collocated Facility Checklist* will be completed during each onsite inspection, attached to and become part of the *Form B – Juvenile Detention /Correctional Facilities Monitoring Form* or *Form A – Law Enforcement Departments Monitoring Form*.
- 5. The *Form E – Rural Exception Checklist* will be completed at all inspections of adult jails, adult lockups, or unlicensed collocated facilities, attached to and become part of the *Form A – Law Enforcement Departments Monitoring Form*.
- 6. If youth were held in violation of the JJDP Act, and not reported as a violation in the facility's regular report to MBCC, a *Form F – Compliance Violation Form* will be completed, attached to and become part of the juvenile detention monitoring form.
 - a. The MBCC designated monitor(s) will provide technical assistance and training to those facilities not in compliance with record keeping requirements and state and federal statutes.
 - b. Cases where there is non-cooperation in aligning their systems to OJJDP requirements will be brought to the prompt attention of the MBCC Juvenile Justice Planner by the designated monitor(s) in a written request for further action.
 - c. The designated monitor(s) will return all completed forms to the JJ Planner no later than 20 days after the end of the quarter in which the onsite visit occurred.
- 7. A master facility table, retained in the Juvenile Detention Reporting (JDR) System, will be updated by the Juvenile Justice Planner based on information provided in the monitoring forms and annual facility surveys with the following information:

- a. Name of the facility subject to inspection
- b. County in which the facility is physically located.
- c. Classification of the facility at the last onsite inspection.
- d. Reporting status (reporting or non-reporting) during the last reported calendar year.
- e. Date of the last onsite inspection.
- f. Facility's address, phone number, and reporting contact's email address
- g. Whether the facility is in a metropolitan statistical area (MSA) or non-MSA.
- h. Sight and sound separation status of the facility at the last onsite inspection (sight separate, sound separate, or uses a process to maintain sight and sound separation through policy and procedure).

Section 406: Violations

Statement of Purpose:

To set forth the procedures to be used when a facility is alleged or found to be in violation of the JJDP or Youth Court Acts.

Procedures:

1. The MBCC designated monitor(s) and the Juvenile Justice Planner will be the primary agents to discover and report compliance violations throughout the state, and to investigate alleged violations.
2. The process to be used by the Juvenile Justice Planner to investigate violations self reported to the JDR System is:
 - a. Email the facility to request that the data be reviewed to ensure that the violation is valid and not the result of a typographical error or missing data element.
 - i. If the facility responds that the data on which the violation was calculated was in error, that error will be corrected.
 - ii. If the facility responds that the data is correct:
 1. The record of the violation in the JDR System will act as the information of the violation to be reported to OJJDP in the annual Compliance Report. (Reference Section 407).
 2. The Juvenile Justice Planner will obtain a report of the circumstances surrounding the violation and provide technical assistance and training as needed.
 - b. Reported data will be verified by the designated monitor during the facility's onsite monitoring visit.
3. When MBCC receives an independent allegation of a compliance violation, the Juvenile Justice Planner will designate a monitor to investigate it. Sources may include but are not limited to:
 - a. A member of the Youth Justice Advisory Council (YJC)
 - b. Administrators of public or private agencies
 - c. Interested citizens and/or parents
 - d. Youth
4. The process to be used to receive, investigate and respond to an allegation of a compliance violation is:
 - a. The Juvenile Justice Planner will:
 - i. Document the circumstances surrounding the alleged violation and the nature of the violation, using the Compliance Violation Report

- ii. Review the JDR System database for the facility named in the allegation to determine if the alleged violation has already been self-reported, documenting the results on the Violation Report Form (Form F) and filing in the appropriate facility file if the violation was self-reported.
 - iii. If the violation was not self-reported, forward the Violation Report Form (Form F) to the designated compliance monitor for investigation.
 - b. The designated monitor will make an onsite visit to fully investigate the alleged violation, following OJJDP Rules and Regulations.
 - i. If onsite investigation either reveals or confirms a violation has occurred the monitor will provide:
 - 1. The facility with an explanation of the nature of the violation;
 - 2. Immediate onsite instruction on the measures necessary for the facility to come into compliance;
 - 3. Copies of documentation; and
 - 4. A copy of the completed Violation Report (Form F) including follow-up recommendations to the JJ Planner.
 - c. The designated monitor will provide to the JJ Planner, the written facility Violation Reports no later than 20 days after the end of the quarter in which the onsite visit occurred
- 5. The process to be used by the MBCC designated monitor(s) to report violations that are:
 - a. Flagged in the JDR data report as violations and confirmed to be a violation:
 - i. No further action is required.
 - b. Flagged in the JDR data report as a violation and found onsite to be a data reporting error and not a violation:
 - i. Notify the facility and request that they make the appropriate correction to data input incorrectly into the JDR or reported to MBCC on Reporting Form G.
 - ii. Document the situation and report it to the JJ Planner in the monitoring report
- 6. The MBCC JJ Planner will follow-up:
 - a. A confirmed compliance violation with any action that is deemed responsible and appropriate to the circumstances.
 - b. A data reporting error resulting in a false violation to ensure the correction has been entered into the JDR system.

7. Any facility found to be in violation may appeal the finding to the Youth Justice Advisory Council (YJC) by sending a letter of intent to appeal no later than 10 day days prior to the next scheduled meeting of the YJC to:

Chairman, MT Youth Justice Advisory Council
c/o Juvenile Justice Specialist
Montana Board of Crime Control
PO Box 201408
Helena, MT 59620-1408

8. Upon receipt of a letter of intent to appeal, the JJ Specialist will provide a copy of the letter to the JJ Planner for the facility file and work with the Chairman of the YJC to schedule a hearing of the appeal on the next meeting agenda.
9. If a facility does not respond to training or technical assistance and continues to accumulate additional avoidable violations, the JJ Planner will follow the identified process detailed in Section 100.

Section 407: Annual Report to OJJDP

Statement of Purpose:

To establish a policy and procedure for reporting compliance to the Office of Juvenile Justice and Delinquency Prevention.

Policy:

It is the MBCC Juvenile Justice Planner's responsibility to compile the compliance data in the format required by OJJDP have it delivered to OJJDP no later than March 31st annually.

Procedures:

1. The reporting period is the calendar year.
 - a. The second week of January, the MBCC Community Justice Bureau (CJB) Administrative Assistant and the Juvenile Justice Planner will send a verification letter along with a report of all youth secure detentions for the facility (if any) reported to date for the reporting period. (Reference annual verification letter) requesting verification or correction of the following information for their facility:
 - i. Whether the facility is secure or non-secure;
 - ii. Facility name;
 - iii. Facility address;
 - iv. Facility administrator;
 - v. Facility reporting contact;
 - vi. Facility phone number;
 - vii. Facility status during the reporting period(active/inactive);
 - viii. Facility policy on holding youth securely (holds youth or does not hold youth) and if the policy is not to hold youth, confirm that circumstances did not occur where youth were held contrary to policy; and
 - ix. The completeness and accuracy of the reported youth held during the year.
2. After the end of the 2nd week in February, the MBCC CJB Administrative Assistant and the JJ Planner will determine if all the facilities in the monitoring universe have responded to the verification letter, making a list of the non-respondents, if any for follow-up contact by the CJB Administrative Assistant.
3. After all facility data has been collected and confirmed, the JJ Planner will query the JDRS program to extract the data needed to complete OJJDP's Report template that is available for download at:
www.ojjdp.ncjrs.org/compliance/compliance_monitoring_report.xls

4. Violation data confirmed by monitors and reported on Violation Reports that were not reported to the JDR System, will be added to the data from the database queries and included in filling out the OJJDP Form.
5. A Compliance Report file for the reporting year will be created in the office of the JJ Planner that contains:
 - a. A copy of the completed OJJDP Compliance Monitoring Report Form
 - b. A copy of the one page "State of Montana Insurance Deductions Calendar" that shows all state/federal holidays and weekends for the reporting period.
 - c. Copies of the JDR queries and violation reports used to compile the data to complete the OJJDP Compliance Monitoring Report Form
 - d. Copies of the completed verification letters returned from the monitoring universe for the reporting period, and documentation of follow-up with non-respondents, if any.
6. On or before March 31st of each year, MBCC will Fed Ex the original email one copy of the Monitoring Report to the State Representative assigned to Montana by OJJDP.
7. Additional copies of the report will be:
 - a. Filed in the office of the JJ Planner;
 - b. Provided to the JJ Specialist to be: filed in the appropriate Title II Formula Block grant file; made available to the YJC; and other interested parties.

Section 408: Training

Statement of Purpose:

To establish an effective policy and procedure for training MBCC compliance staff, local law enforcement, and administrators of secure facilities on the state and federal laws, regulations and policies applicable to youth in custody.

Policy:

It is the responsibility of the MBCC Executive Director to:

1. Allocate resources to: provide national training to the JJ Planner annually; and, an initial national training on federal statutes and requirements for each newly designated compliance monitor; and
2. Work with the CJB Chief to identify resources to meet the training needs communicated by the Juvenile Justice Planner.

It is the responsibility of the MBCC JJ Planner to:

1. Develop monitoring plans, standards, training and training aids that when implemented will allow compliance monitors, local law enforcement officers and administrators of secure facilities to be knowledgeable in the handling of youth in custody in compliance with both state and federal statutes, regulations and policies;
2. Provide on the job training to compliance monitors;
3. Answer compliance questions as they arise from compliance monitors, facility administrators, local law enforcement, juvenile justice personnel, and the public;
4. Identify and communicate identified training needs and appropriate strategy to the CJB Chief;
5. Work with the CJB Chief and the JJ Specialist to develop a strategy to address the identified training needs;
6. Communicate identified training needs and appropriate strategy to the YJC at their next quarterly meeting;

It is the responsibility of the compliance monitors, during onsite monitoring visits, to:

1. Provide appropriate compliance standards, training aids, and onsite training to local law enforcement and facility administrators; and
2. Identify and communicate additional training needs to the JJ Planner.

It is the responsibility of the Juvenile Justice Specialist to:

1. Work with the CJB Chief and the JJ Planner to develop strategies to address identified training needs; and
2. Work with the Chair of the YJC to provide time on the agenda for the JJ Planner's Compliance Report.

It is the responsibility of the CJB Chief to work with the MBCC Executive Director to identify resources to carry out the strategies to address the identified training needs

Section 409: Tribes

Statement of Purpose:

To establish an effective policy and procedure for meeting the requirement that tribes that access Native American pass through attempt to comply with the JJDP Act, while still recognizing that the state does not have any right to monitor tribes except as agreed to by them as sovereign entities.

Policy:

It is the responsibility of the MBCC Executive Director to work with the CJB Chief to address identified tribal training needs within available resources.

It is the responsibility of the CJB Chief to work with the Juvenile Justice Specialist and the Juvenile Justice Planner to address identified tribal training needs.

It is the responsibility of the JJ Specialist to:

1. Ensure that the Requests for Proposals (RFPs) for Title II and Title V Formula Grant funds include a requirement for tribes to submit a valid signed tribal resolution agreeing to try to comply with the JJDP Act.
2. Work with the CJB Chief and the JJ Planner to develop strategies to address identified tribal training needs.

It is the responsibility of the JJ Planner to:

1. Develop a sample tribal resolution using JJDP Act language to post on the web page for reference by tribal applicants.
2. Work with the Disproportionate Minority Contact/Juvenile Detention Alternative Initiative (DMC/JDAI) Committee of the Youth Justice Advisory Council (YCJ) to review the sample tribal resolution to simplify the JJDP Act language into plain language for use by the tribes.
3. Provide a copy of the signed Tribal Resolution to the monitor assigned to work with the tribe to come into compliance with the JJDP Act.
4. Answer compliance questions as they arise from tribes, compliance monitors, tribal facility administrators, tribal law enforcement, tribal juvenile justice personnel, and the public.
5. Identify and communicate training needs of tribes, compliance personnel, law enforcement, detention officers, and juvenile probation officers to the CJB Chief and the JJ Specialist.
6. Work with the CJB Chief and the JJ Specialist to develop a strategy to address the identified tribal training needs.

7. Communicate identified tribal training needs and appropriate strategy to the DMC/JDAI Committee meeting at their next quarterly meeting.

It is the responsibility of the compliance monitor(s), during onsite monitoring visits, to:

1. Contact tribes and set up an appointment to provide technical assistance and training on the JJDP Act to tribal law enforcement, tribal facility administrators and tribal courts;
2. Provide appropriate compliance standards, training aids, and onsite training to tribal law enforcement, tribal courts and tribal facility administrators; and
3. Identify and communicate additional tribal training needs to the JJ Planner;
4. Arrange annual onsite monitoring visits for the duration of the tribes Title II or Title V funding.

Section 410: Maintenance of the Monitoring Plan

Statement of Purpose:

To establish a means for ensuring that the Monitoring Plan reflects current state and federal statutes.

Policy:

It will be the responsibility of the JJ Planner to initiate a biennial review of the Compliance Monitoring Plan after each state legislative session and federal legislative session and draft revisions to the plan if necessary.

It will be the responsibility of the Compliance Monitors and Juvenile Justice Specialist to review the draft and in a meeting initiated by the JJ Planner, provide input and suggestions for change to the Plan.

It will be the responsibility of the JJ Planner to incorporate agreed upon revisions to the draft.

It will be the responsibility of the JJ Specialist to bring the revised draft forward to the YJC for input.

Procedures:

The Juvenile Justice Planner will:

1. In May of odd numbered years or when first available, obtain a copy of the Youth court and JJDP Acts as amended;
2. Review them for impact on the Compliance Monitoring Plan, if any;
3. Draft a revision to the Compliance Monitoring Plan to appropriately reflect statutory impact;
4. Make adjustments to the plan based on personal observations and evaluate feedback obtained in the past two years from plan users;
5. Initiate a meeting with the compliance monitor(s), Statistical Analysis Center (SAC) Unit, JJ Specialist, and CJB Chief for comprehensive review, input and revision;
6. Implement changes to the draft as agreed upon during the comprehensive review;
7. Provide the revised draft to the JJ Specialist for submission to the YJC for input;
8. Finalize the plan and provide to the MBCC Data Manager for posting to the website.
9. Advise all users of the availability of the revised plan for download from MBCC's web page.

The compliance monitor(s) will:

1. Provide continuous feedback to the JJ Planner on ease of use of the manual and related materials in the field as observed by themselves and/or as related by facility administrators;
2. Attend and participate in the comprehensive review of the draft revisions to the Compliance Plan;
3. Provide training and technical assistance on the changes to facility administrators and their personnel as requested and during regular onsite visits.

The JJ Specialist will:

1. Provide continuous feedback to the JJ Planner on the ease of use of the manual and related materials as related by juvenile justice professionals in the field;
2. Participate in the comprehensive review of the drafted revisions to the Compliance Monitoring Plan; and
3. Work with the Chair of the YJC to provide copies of the drafted revisions to the YJC for their review, and time on the agenda to provide input into the revision.

The Chairman of the YJC will provide time on the agenda for the YJC to provide input into the revision of the Compliance Monitoring Plan.

The MBCC Data Manager will post the revised Compliance Monitoring Plan and related plan materials to MBCC's web page