



2019

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



MBCC

State of Montana

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Annually, October - December or when revisions are necessary to remain substantially current

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**Federal Law:**

Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 2002; and  
Juvenile Justice Reform Act of 2018

**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 2002; October 2010

**Related Montana Code Annotated (MCA):**

Title 41, Chapter 5, Montana Youth Court Act

If you have questions about information in this publication, please call the Public Safety Program Specialist at (406) 444-3605. Service for the hearing impaired: Montana Relay 711 or <https://dphhs.mt.gov/detd/mtap/mtapmtrelay/makeacall>.

## 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 (MBCC) 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 MBCC determines that a county is not in compliance or substantial compliance with the Montana Youth Court Act, the MBCC shall terminate the grant to the county. MCA 41-5-1907 directs the MBCC 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 in 2002.

The JJDP Act, through the 2002 reauthorization, establishes four core requirements with which participating states and territories must comply to receive Title II Formula grants under the JJDP Act:

- Deinstitutionalization of status offenders (DSO);
- Separation of juveniles from adults in institutions (separation);
- Removal of juveniles from adult jails and lockups (jail removal); and
- Reduction of disproportionate minority contact (DMC), where it exists.

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

1. **Policies and procedures:** Pursuant to 28 C.F.R. § 31.303(f)(1)(i), the state must provide a written plan and procedure for annually monitoring jails, lockups, detention facilities, and correctional facilities. This plan must detail the state's implementation of key monitoring system elements (Within all Sections).
2. **Monitoring authority:** Pursuant to 34 U.S.C. § 11133(a)(2), the designated state agency must document that it maintains requisite authority to carry out responsibilities imposed by the Formula Grants Program. This includes authority to inspect and collect data from facilities in the monitoring universe (Section 200).
3. **Violation procedures:** Pursuant to 28 C.F.R. § 31.303(f)(1)(iii), the state's monitoring system must describe any procedures established for receiving, investigating, and reporting alleged violations of the DSO, Separation, and Jail Removal requirements. This description should include any legislative and administrative procedures and sanctions that exist (Section 406).

4. **Definition of terms:** States might have different definitions for juvenile and criminal justice terms than those in the JJDP Act and provided at 28 C.F.R. § 31.304. It is critical that any such differences are identified and fully documented. The state must indicate that where its definitions differ from federal definitions in the monitoring process, the latter will be used (Section 400).

5. **Identification of the monitoring universe:** All public and private facilities in the state that might detain juveniles and/or adult inmates pursuant to law enforcement or criminal or juvenile court authority must be fully identified and included in the monitoring universe, pursuant to 28C.F.R. § 31.303(f)(1)(i)(A); (Section 401).

6. **Classification of the monitoring universe:** Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(B), the state must classify facilities in the monitoring universe to determine facility type (e.g., secure detention or correctional facility, adult jail, adult lockup, or other type of secure facility in which juveniles may have sight or sound contact with adult inmates). This information is critical to determining the applicability of the DSO, Separation, and Jail Removal requirements in each facility. In addition, classification determines whether each facility is residential or nonresidential; and whether the population is juveniles only, adults only, or juveniles and adults (Section 402).

7. **Inspection of facilities:** Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(C), the state must inspect facilities to confirm classification and to verify that they are maintaining adequate sight and sound separation between detained juveniles and adult inmates. Such inspections must also verify that facilities maintain adequate data to demonstrate compliance with the DSO, Separation, and Jail Removal requirements (Sections 200, 300, 403-406).

8. **Data collection and verification:** Pursuant to 28 C.F.R. § 31.303(f)(1)(i)(D), this is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable core requirements. If the data are self-reported by the facility or are collected and reported by an agency other than the state agency designated pursuant to 34 U.S.C. §11133(a)(1), the plan must provide a statistically-valid procedure used to verify the reported data (Section 404).

Additionally, the plan describes the following:

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. Annual compliance monitoring report to OJJDP (Section 407);
3. Training (Section 408);
4. Indian Tribes (Section 409); and
5. Maintenance of the Monitoring Plan (Section 410).

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.

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## Section 100: Identify and Address Barriers to Compliance

### Statement of Purpose

To identify emerging barriers to maintaining compliance with the core requirements of the JJDP Act and Youth Court Act and develop state and local strategies to overcome them.

### Policy

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

1. Expiration of the Governor's 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 Montana 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 Montana 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 Montana Department of Corrections (DOC) - Crime Control Bureau Chief of the Montana Board of Crime Control (MBCC) will do the following:**

1. Biennially, in January of odd numbered years, advocate for the renewal of the Executive Order by the Governor to continue the YJC.
2. 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.
3. 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.
4. Provide the Juvenile Justice Specialist and Public Safety Program Specialist with the following:
  - 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; and
  - 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.
5. Supervise the Juvenile Justice Specialist and Public Safety Program Specialist's development of written recommendations for state and local strategies to overcome identified barriers.

**The Public Safety Program Specialist** will do the following:

1. Report to the Bureau Chief and Juvenile Justice Specialist 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 Bureau Chief and the Juvenile Justice Specialist to develop written recommendations for state and local strategies to overcome identified barriers and submit to the YJC for consideration. 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; and
  - d. Intensive local 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 Monitoring 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 the following purposes:

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; and
4. Enforce sanctions when violations are not corrected.

## Related State Statutes and Federal Requirements

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 in 2002 and in the Juvenile Justice Reform Act of 2018 and make rules to carry out those responsibilities.

## Policy

To define the agency's legal responsibility in clear terms and make them known to all parties to ensure effective monitoring and enforcement.

MBCC will provide a contracted Compliance Monitor with a photo identification card that identifies the monitor as a representative of MBCC and as such has the following expectations:

1. Should be permitted to review records containing detention information;
2. Will respect the confidential nature of any information obtained during 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 will make available during all onsite inspections a photo identification card that clearly defines them as a representative of MBCC; and
2. The monitor reports directly to the Public Safety Program Specialist 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

To develop an annual monitoring work plan and monitoring contract for the upcoming state fiscal year and for inclusion in the Title II application due to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) normally in February and March each year.

### Procedures

**The Public Safety Program Specialist** will do the following:

1. Annually in January review the monitoring tasks as outlined in this policy with the contracted Compliance Monitor and prepare a Compliance Monitoring Work Plan to submit to the Bureau Chief and Juvenile Justice Specialist for input and review.

2. Coordinate the activities of the contracted Compliance Monitor and supervise monitoring services contracts to accomplish the monitoring tasks. The monitoring tasks will be included within the sections of this manual and a yearly contract.

## 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 adopts and follows 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. Existing regulation and the OJJDP Guidance Manual definitions<sup>1</sup> are utilized as reference.

### Procedures

Formula Grant Regulations, JJDP Act, and the OJJDP Guidance Manual definitions take precedence over state definitions. Related Youth Court Act Definitions, if any, are referenced in blue.

1. ***Adjudicated youth***<sup>2</sup> - 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\(25\) 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\(25\) 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 (OJJDP Guidance Manual, p. 49)<sup>3</sup>. [MCA 41-4-103\(51\) Youth in need of intervention](#)

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

<sup>2</sup> 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).

<sup>3</sup> MCA 41-5-341 provides that only alleged delinquent youth and youth charged with offenses listed under MCA 41-5-206 may be detained. MCA 41-5-2-3 establishes that only youth under the jurisdiction of the Youth Court may be

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 to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:
- a. 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;
  - b. 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. Juveniles and incarcerated adults may not share program activities. 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;
  - c. 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
  - d. 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 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

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alleged or found to be delinquent. Therefore youth charged with offenses solely under the jurisdiction of the lower courts may not be alleged or found to be delinquent.

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 (subsections a–d). [MCA 41-5-103\(51\) \(a\) \(ii\) Youth detention facility](#)

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 \(3\) \(c\) Youth not to be detained in jail – exceptions – time limitations](#)
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 (page 53 OJJDP Guidance Manual. (**Caution:** Do not 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.<sup>4</sup> 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 youth](#)
10. **Delayed egress device** – a device that precludes the use of exits for a predetermined period.<sup>5</sup>
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

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<sup>4</sup>OJJDP Guidance Manual, page 22

<sup>5</sup> Ibid., p. 49.

who violate a VCO cannot be held in an adult jail or lockup for any length of time.<sup>6</sup>

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 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)). [MCA 41-5-103 \(11\) Delinquent youth or 41-5-103 \(51\) Youth in need of intervention.](#)
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)).
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\(34\) 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

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<sup>6</sup>Ibid., p. 22.

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:

- a. 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;
- b. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
- c. 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;
- d. In no event can the area be designed or intended to be used for residential purposes; and
- e. The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period 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 meets the following criteria:
- a. Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; or
  - b. Any other agency, organization, or institution which operates primarily for scientific, education, or 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 meets the following criteria:
- a. Does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein;
  - b. May establish reasonable rules restricting entrance to and egress from the facility; and
  - c. 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 (e.g., 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 the following is true:

- a. 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<sup>7</sup>.

The following are examples of status offenses:

- Truancy
- Violations of curfew
- Unruly or ungovernable
- Runaway

[MCA 41-5-103\(51\) 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: “Exception for Status Offenders Who Violate a Valid Court Order”, pages 21-23 of the OJJDP Guidance Manual, specifically regarding 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 Monitoring Universe 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 detention of youth to the following:

1. Shelter care placements (Reference: *Shelter care* MCA 41-5-103(39); *Shelter care facility* MCA 41-5-103 (40); *Criteria for placement of youth in shelter care facilities* 41-5-342; *Place of shelter care* 41-5-347; and *Youth shelter care facility* 52-2-602 (14);

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<sup>7</sup> Ibid.

2. Secure juvenile and collocated detention and juvenile correctional facilities (Reference: *Criteria for placement of youth in secure detention facilities*, MCA 41-5-341; *Place of detention* 41-5-348; *Detention* 41-5-103(14); *Detention Facility* MCA 41-5-103 (15); *Secure detention facility* 41-5-103 (37); and *Short-term detention center* 41-5-103 (41)); and
3. Adult Jails and Lockups (Reference: *Adult* 41-5-103; *Jail & Lockup* 41-5-103 (25); Youth not to be detained in jail – exceptions – time limitations MCA 41-5-349; and *Permitted acts – detention of youth in law enforcement facilities - criteria* 350)

## Procedures

1. Annually, in January of each calendar year the Public Safety Program Specialist 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 MBCC designated 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 correct 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 contracted 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 contracted monitor will query in the facility’s monitoring report, sheriffs in counties that do not 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 Public Safety Program Specialist will update the facility table in the MBCC designated juvenile detention reporting system, as needed, with the results of the annual query and contracted monitoring reports.

## Section 402: Facility Classification

### Statement of Purpose

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

## Related State Statues

Montana Code Annotated (MCA) 52-2-601 through 623 statutorily 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(50) defines a “Youth detention facility” and designates licensing and regulatory authority for secure juvenile detention and collocated facilities to the Department of Corrections.

There are no provisions in state statute for the independent monitoring or licensing of juvenile correctional facilities, adult jails, or adult 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 monitoring compliance with DSO, jail removal, and separation.”<sup>8</sup>

## Policy

During onsite monitoring visits the contracted monitor 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 either 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 in a Metropolitan Statistical Area (MSA)<sup>9</sup> or a non-MSA?

For secure adult facilities, there will be a fifth category:

5. Is it short term or long term?
  - a. A short-term facility is classified as an adult lockup.
  - b. A long-term facility is classified as an adult jail.

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<sup>8</sup> Ibid., p. 26.

<sup>9</sup> For the federal definition and current delineations reference, see <http://www.census.gov/population/metro/>

## 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 non-secure 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 provide sight and sound separation through a process that is documented in the facility's written policy and their staff is found by the contracted monitor during his/her onsite visit to be familiar with and practice that process.

Facilities that meet the following classification criteria are 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 DPHHS per MCA 52-2-601 through 623.
2. All secure residential treatment centers regulated and monitored by DPHHS with Joint Accreditation of Hospitals (JAH). MCA 41-5-1504 requires that no youth may be placed in a secure mental health facility unless he/she is suffering from a mental disorder as defined in MCA 53-21-102, meets the criteria in 53-21-126(1) and is entitled to all rights provided by 53-21-114 through 119.

## Section 403: Montana Monitoring Standards

### Statement of Purpose

Because Montana's Youth Court Act is, in some instances, more restrictive than the JJDP Act, and because some requirements of the JJDP Act are more restrictive than the Youth Court Act, it is necessary to provide law enforcement with clear information on what constitutes compliance or violation when handling youth in custody.

### Policy

MBCC developed clear monitoring standards for law enforcement departments and each facility type within the monitoring universe. MBCC bases these standards upon the Montana Youth

Court Act, MBCC rules, the JJDP Act, federal regulations and guidance, whichever is more restrictive. The standards use the definitions set forth in Section 400. These standards will be most useful if freely disseminated in the field.

## Record Keeping

All facilities in the monitoring universe are responsible for maintaining data on all youth in custody. Law enforcement and facility administrators must maintain the following minimum information on all youth in custody (secure or non-secure):

- Name
- Court ID number<sup>10</sup>
  - Ask the court of jurisdiction for a unique identifier for the youth. For youth under the jurisdiction of Montana’s Youth Court, it is the Juvenile Court Assessment and Tracking System (JCATS) number.
- Month, day, and year of birth
- Gender
  - Male
  - Female
- Race/ethnicity
  - White race – non-Hispanic
  - Black or African American race – non-Hispanic
  - Hispanic or Latino of any race
  - Asian race– non-Hispanic
  - Native Hawaiian or other Pacific Islander race– non-Hispanic
  - American Indian or Alaskan Native race– non-Hispanic
  - Other race or Mixed race – non-Hispanic
- Jurisdiction
  - Adult court
  - Department of Corrections
  - Federal
    - Immigration and Customs Enforcement (ICE) (formerly INS)
    - Bureau of Indian Affairs (BIA)
    - Other
  - Out of state (interstate compact)
  - Tribal court
    - Blackfeet
    - Chippewa Cree (Rocky Boys)

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<sup>10</sup> For Montana youth under the jurisdiction of Montana 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 that can link the information reported to MBCC with the appropriate youth’s documents on file in your facility.

- Confederated Salish & Kootenai Tribes
    - Crow
    - Ft. Belknap
    - Ft. Peck
    - Northern Cheyenne
  - Youth court
- County
  - Referring County:
    - If youth is picked up on a warrant, the Montana county where the warrant was issued; otherwise “Out of State”
    - If law enforcement action, the Montana county where offense was committed
  - Where the client resides

MCA codes for the most serious offense charged; if that is criminal contempt (MCA 45-7-309) or probation violation (MCA 46-23-1012), include the original offense.<sup>11</sup>

- Date and time the youth was taken into custody
- Date and time the youth was released from custody
- Date and time the youth received a probable cause hearing (aka detention hearing)
- To whom the child was released
  - Correctional facility
    - In state
    - Out of state
  - Family (other than parents)
  - Foster care
  - Group Home
  - Guide Home
  - Home or parents (Use this category for emancipated youth released on his/her recognizance.)
  - Home Arrest
  - Local Law Enforcement
  - Other Detention Facility
  - Parole Officer
  - Probation Officer
  - Shelter care
  - Social Worker
  - Transport
    - In state

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<sup>11</sup> For youth not under the jurisdiction of Montana District Youth Courts or the Montana Department of Corrections, use the MCA equivalents.

- Interstate compact
  - Treatment:
    - In state
    - Out of state
  - US Marshall
  - Border Patrol (ICE)
- If adjudicated delinquent youth - date and time of adjudication hearing
- If accused criminal offender - date and time of transfer hearing 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 to the web based Juvenile Detention Data and Reporting System (JDDRS) in as close to real time as possible but no later than 24 hours, or before a transferred youth arrives at the new facility. To obtain new or changed access to JDDRS contact MBCC by phone: 406-444-3604 or by email: [mbcc@mt.gov](mailto:mbcc@mt.gov)

## Compliance Violations

**For licensed juvenile detention and collocated detention facilities, the following constitute violations:**

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 41-5-332.
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 juvenile correctional facilities, the following constitute violations:**

1. Any civil, status, or non-offender held for any length of time in secure status.
2. Any youth held for any length of time without an adjudication hearing and court-ordered commitment to a juvenile correctional facility.
3. Any youth that may have had sustained sight or sound contact with an adult offender.

**For adult jails or lockups *in an MSA or non-MSA with alternative placements available*, the following constitute violations:**

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 six hours from the time they enter a secure custody status.
4. Any adjudicated delinquent offender held for any length 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 hours or less for punitive reasons.

**For adult jails or lockups in a *non-MSA without alternative placements available*, the following constitute violations:**

1. Any juvenile status, civil, or non-offender placed in a secure or residential room or cell or 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 an MSA: any accused delinquent offender securely held over six hours and released to parents/guardian without a probable cause hearing in accordance with MCA 41-5-332.
4. In an adult jail or lockup in a 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 length 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 sight 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:**

Non-secure holdover facilities are required to maintain the same information on youth held non-securely as secure facilities. However, they do not need to report that data to MBCC. MBCC's contracted monitor will review the data at the facility during onsite visits. If, during the onsite visit, the contracted monitor determines that the facility held youth in violation of the requirements of the act, the monitor will reclassify the facility and report applicable violations on the onsite monitoring report form.

**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 contracted Compliance Monitor and the MBCC Public Safety Program Specialist will be available to anyone desiring additional information or clarification on any of the sections of the law.



## Section 404: Data Collection and Verification

### Statement of Purpose

It is necessary to collect and verify data 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 Public Safety Program Specialist** will do the following:

1. Enter detentions reported on reporting form G to the MBCC designated juvenile detention database for the appropriate facility;
2. Review the onsite monitoring reports for each facility monitored during the calendar year, entering the date of the site visit into the MBCC designated detention reporting database, and updating facility classification and other facility data as appropriate.
3. Follow up with the contracted monitor as needed to clarify any questions raised by the reports.
4. Annually, after the second week in January of the following year, send a verification letter to each facility in the monitoring universe, along with a copy of the data reported and entered into the MBCC designated detention reporting database for the facility for the calendar year, requesting that each facility verify the following:
  - The facility did not hold any youth securely during the calendar year; or
  - The facility held youth securely and the attached report of juvenile detentions to the MBCC designated detention reporting database accurately reflects detentions reported for the recently completed calendar year; or
  - The facility held youth securely and the attached report does not accurately reflect detentions reported for the calendar year and indicates needed corrections to the report.
- Maintain a log of all verification letters received;
- Follow up with the facilities until all verification letters are signed and returned;
  - Enter any additional detentions or corrections reported in the letters to the MBCC designated juvenile detention reporting system;
5. Upon receipt of the signed verification letter from each facility, check the appropriate boxes “Reporting” and “Holding” in the MBCC designated detention reporting database for that facility.
6. Maintain an electronic file for each facility in the monitoring universe in the MBCC share drive. The file will include the following filed by year:
  - a. Onsite monitoring forms and attachments
  - b. Inspection notes
  - c. Violation reports

- d. Correspondence
  - e. Facility floor plan (if available)
7. Maintain an electronic file by calendar year submitted in the MBCC share drive. The file will include the following documents:
- 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

**MBCC enlists the services of a private contractor** to perform onsite facilities compliance monitoring visits. The current Contracted Compliance Monitor is: Mike Ferriter; 5 Karrah Road, Clancy, MT. 59634; ph. 406-475-5357.

**The MBCC contracted monitor** will do the following during onsite visits:

1. Fully complete the required monitoring forms for each onsite visit (Reference Section 405 – Onsite Monitoring);
2. Review the facility’s log of youth detained for the last 12 months in adult jails, lockups, non-approved collocated facilities and adult correctional facilities and report to the MBCC designated juvenile detention reporting system database, to ensure that all youth detained, and any attendant violations were accurately reported;
3. Report 10% of randomly selected facility records for youth detained in the last 12 months in licensed juvenile detention and collocated facilities, and the Pine Hills Youth Correctional Facility to the MBCC designated juvenile detention reporting system database to ensure the facility correctly reports all youth securely held;
4. Verify that the facility maintains logs in accordance with the reporting requirements of Section 403 with the minimum information on youth held non-securely.

## **Section 405: Onsite Monitoring**

### **Statement of Purpose**

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

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 monitored; and 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) are to be monitored at least once every three years.

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

## Procedures

1. The MBCC contracted monitor will make onsite visits without prior notice to the facility 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 contracted monitor will notify the facility administrator, and, if it is a county owned facility, the sheriff, of the date and time of the inspection.
2. The contracted monitor 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) colocated 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*.

The contracted monitor will do the following:

1. Provide one electronic copy of the form and applicable attachments to the facility administrator;
  2. Retain the original for his/her records; and
  3. Email a scanned copy of the original signed report and all attachments to the Public Safety Program Specialist to review and place in the appropriate file at MBCC.
3. The contracted monitor will conduct a thorough record review to ensure all facilities keep records consistent with state and federal OJJDP Rules and Regulations (Reference Sections 403 and 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 contracted monitor will complete *Form E – Rural Exception Checklist* 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 the contracted monitor identifies youth 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 contracted monitor will provide technical assistance and training to those facilities not in compliance with record keeping requirements and state and federal statutes.
  - b. The MBCC contracted monitor will bring all cases where there is non-cooperation in aligning a facility’s systems to OJJDP requirements to the prompt attention of the MBCC Public Safety Program Specialist in a *written* request for further action.
  - c. The contracted monitor will return all completed forms to the Public Safety Program Specialist no later than 20 days after the end of the month in which the onsite visit occurred.
7. The Public Safety Program Specialist will update the master facility table, retained in the MBCC designated juvenile detention reporting database, based on the 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; and 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 used when a facility is alleged or found to be in violation of the JJDP or Youth Court Acts.

### Policy

The records review process will allow for discovery of unreported detentions that would result in a compliance violation and for discovery of reported violations that were not violations, but the result of data entry error.

### Procedures

1. The MBCC contracted monitor and the Public Safety Program Specialist will be the primary agents to discover and report previously unreported compliance violations throughout the state, and to investigate alleged violations.
2. Following is the process to be used by the Public Safety Program Specialist to investigate violations self-reported to the MBCC designated juvenile detention reporting system:
  - a. Email a request to the facility requesting review of the system generated report to ensure that the violation is valid and not the result of a typographical error or missing data element.
    - i. If the data on which the violation was calculated was in error, correct the data.
    - ii. If the facility responds that the data is correct, the following applies:
      1. The record of the violation in the MBCC designated juvenile detention reporting system will act as the information of the violation reported to OJJDP in the annual Compliance Report. (Reference Section 407).
      2. The Public Safety Program Specialist will obtain and document a report of the circumstances surrounding the violation and provide technical assistance and training as needed.
  - b. The contracted monitor will verify reported data during the facility's onsite monitoring visit.
3. When MBCC receives an independent allegation of a compliance violation, the Public Safety Program Specialist will dispatch the contracted monitor to investigate it. Sources may include, but are not limited to, the following:
  - 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. Following is the process used to receive, investigate, and respond to an allegation of a compliance violation:

- a. The Public Safety Program Specialist
  - i. Documents the circumstances surrounding the alleged violation and the nature of the violation, using the Compliance Violation Report.
  - ii. Reviews the MBCC designated juvenile detention reporting database for the facility named in the allegation to determine if the facility self-reported the alleged violation, documenting the results on the Violation Report Form (Form F) and filing in the appropriate facility file if the facility did not self-report the violation.
  - iii. Forwards the Violation Report Form (Form F) to the contracted compliance monitor for investigation.
- b. The contracted monitor makes an onsite visit to investigate the alleged violation, following OJJDP Rules and Regulations.
  - i. If the investigation either reveals or confirms a violation has occurred the contracted monitor will provide the following:
    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 Juvenile Justice Planner.
  - c. The contracted monitor will provide the Public Safety Program Specialist the written facility Violation Reports no later than 20 days after the end of the month in which the onsite visit occurred.
5. The process to be used by the contracted monitor to report violations that are
  - a. Flagged in the MBCC designated juvenile detention reporting system data report as violations and confirmed to be a violation:
    - i. No further action is required.
  - b. Flagged in the MBCC designated juvenile detention reporting system 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 MBCC designated juvenile detention reporting system or reported to MBCC on Reporting Form G.
    - ii. Document the situation and report it to the Public Safety Program Specialist in the monitoring report.
6. The Public Safety Program Specialist is responsible for the following:
  - a. Follow up a confirmed compliance violation with any action deemed responsible and appropriate to the circumstances.
  - b. Correct a data reporting error resulting in a false violation in the 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 days prior to the next scheduled meeting of the YJC to:

Chair, Montana Youth Justice Advisory Council  
Montana Board of Crime Control  
PO Box 201408  
Helena, MT 59620-1408

8. Upon receipt of a letter of intent to appeal, the Juvenile Justice Specialist will provide a copy of the letter to the Public Safety Program Specialist for the facility file and work with the Chair 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 Public Safety Program Specialist 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**

The MBCC Public Safety Program Specialist will compile and submit the compliance data in the format required by OJJDP annually.

### **Procedures**

1. The reporting period is the calendar year.
  - a. The fourth week of January, the Public Safety Program Specialist 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 fourth week in February, the Public Safety Program Specialist will determine if all the facilities in the monitoring universe have responded to the verification letter, making a list of any non-respondents for follow-up contact.
3. After all facility data has been collected and confirmed, the Public Safety Program Specialist will query the MBCC designated juvenile detention reporting system to extract the data needed to complete OJJDP's Report template.
4. Violation data confirmed by monitors and reported on Violation Reports that were not reported to the MBCC designated juvenile detention reporting 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 by the Public Safety Program Specialist that contains the following:
  - a. A copy of the completed OJJDP Compliance Monitoring Report Form.
  - b. Copies of the MBCC designated juvenile reporting database queries and violation reports used to compile the data to complete the OJJDP Compliance Monitoring Report Form.
  - c. 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. Copies of the report will be dispensed as follows:
  - a. Filed in the share drive in the Compliance folder.
  - b. Provided to the Juvenile Justice Specialist to be filed in the appropriate Title II Formula Block grant file; made available to the YJC members; and provided to other interested parties upon request.

## **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 regarding state and federal laws, regulations, and policies applicable to youth in custody.

### **Policy**

**It is the responsibility of the Bureau Chief** to do the following:

1. Allocate resources to provide national training to the Public Safety Program Specialist annually; and
2. Work with the Public Safety Program Specialist to identify resources to meet the training needs.



**It is the responsibility of the Public Safety Program Specialist 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 Bureau Chief;
5. Work with the Bureau Chief and the Juvenile Justice Specialist to develop a strategy to address the identified training needs; and
6. Communicate identified training needs and appropriate strategy to the YJC at their next quarterly meeting.

**It is the responsibility of the contracted Compliance Monitor to do the following during onsite monitoring:**

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 Public Safety Program Specialist.

**It is the responsibility of the Juvenile Justice Specialist to do the following:**

1. Work with the Bureau Chief and the Public Safety Program Specialist 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 Public Safety Program Specialist's Compliance Report.

## **Section 409: Indian Tribes**

### **Statement of Purpose**

To establish an effective policy and procedure for meeting the requirement that Indian 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 Bureau Chief to work with the Juvenile Justice Specialist and the Public Safety Program Specialist to address identified Tribal training needs.**

**It is the responsibility of the Juvenile Justice Specialist to:**

1. Ensure that the Title II Formula Grant Request for Proposal (RFP) includes a requirement for Tribes to submit a valid signed Tribal resolution agreeing to try to comply with the JJDP Act.
2. Work with the Public Safety Program Specialist to develop strategies to address identified Tribal training needs.

**It is the responsibility of the Public Safety Program Specialist to:**

1. Develop a sample Tribal Resolution using JJDP Act language to post on the web page for reference by Tribal applicants.
2. 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.
3. Answer compliance questions as they arise from Tribes, compliance monitors, Tribal facility administrators, Tribal law enforcement, Tribal juvenile justice personnel, and the public.
4. Identify and communicate training needs of Tribes, compliance personnel, law enforcement, detention officers, and juvenile probation officers to the Bureau Chief and the Juvenile Justice Specialist.
5. Work with the Juvenile Justice Specialist to develop a strategy to address the identified tribal training needs.
6. Communicate identified Tribal training needs and appropriate strategy to the DMC/JDAI Committee at their next meeting.

**It is the responsibility of the contracted Compliance Monitor, during onsite monitoring visits, to:**

1. Contact Tribes with active Title II sub grants and monitoring agreements to 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 Juvenile Justice Planner;
4. Arrange annual onsite monitoring visits for the duration of a Tribal Title II 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 Public Safety Program Specialist** 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 Monitor and Juvenile Justice Specialist** to review the draft and provide input and suggestions for change to the Plan.

**It will be the responsibility of the Public Safety Program Specialist** to incorporate agreed upon revisions to the draft.

**It will be the responsibility of the Juvenile Justice Specialist** to bring the revised draft forward to the YJC for review.

## Procedures

**The Public Safety Program Specialist** will do the following:

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 the Youth Court Act and the JJDP Act for impact on the Compliance Monitoring Plan, if any;
3. Draft a revision to the Compliance Monitoring Plan to appropriately reflect statutory impact;
4. Adjust the plan based on personal observations and evaluated feedback obtained in the past two years from plan users;
5. Initiate opportunities for Juvenile Justice Specialist, and Bureau 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 Juvenile Justice Specialist for submission to the YJC for review;
8. Finalize the plan and provide to the MBCC Data Manager for posting to the website; and
9. Advise all users of the availability of the revised plan for download from MBCC's web page.

**The Compliance Monitor** will do the following:

1. Provide continuous feedback to the Public Safety Program Specialist regarding ease of use of the manual and related materials in the field as observed by themselves and/or as related by facility administrators;
2. 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 Juvenile Justice Specialist** will do the following:

1. Provide continuous feedback to the Public Safety Program Specialist 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 comment on the revision.

**The Chair of the YJC** will provide time on the agenda for the YJC to comment on the revision of the Compliance Monitoring Plan.

**The MBCC Web Site Manager** will post the revised Compliance Monitoring Plan and related plan materials to the MBCC web site.

