



**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF CHILD AND FAMILY SERVICES  
NEVADA STATE JUVENILE JUSTICE PROGRAMS OFFICE**

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TO: Administrator Listenbee, Deputy Administrator Greg Thompson

CC: Kirby Burgess, Dan Coppa and Steve McBride

FROM: Pauline Salla, Nevada Juvenile Justice Programs

DATE: 1/13/2015

RE: OJJDP 'Secure' Compliance Guidance

This memo is to serve as a summary of the conference call with OJJDP Administrator Listenbee and Greg Thompson, Deputy Administrator held on October 3, 2014. The phone call was held to ask for clarification on the new guidance as well as share our concerns of the impact the new guidance will have on Nevada.

This memo is to serve as the written request by Administrator Listenbee regarding the scenarios and concerns discussed during the phone call. Nevada is asking for written clarification regarding the following questions:

1. Does this mean Law Enforcement Organizations (LEOs) are no longer permitted to bring juveniles back to their Departments regardless of their charge (unless certified)?
2. The definition is extremely subjective. How are Lock-ups (LEOs) supposed to make that determination of how a juvenile feels? Are States supposed to start providing training to LEOs on making sure they clearly inform a juvenile non-offender/status offender that they are "free to leave" at any point? This would certainly pose a liability concern for LEOs if a juvenile decides to leave especially if they are in custody for a status offense such as underage drinking.

3. The language of “Reasonable person would feel free to leave” concerns us as we are talking about juveniles. The majority of juveniles taken into custody that would be held non-securely would automatically feel they are not free to leave the supervision or presence of a LEO. Many LEOs have non-secure substations in schools, malls, etc. Based upon the new definition, any juvenile held in custody would now need to be documented and tracked. If these are now considered violations, it would be very difficult for a state to become in compliance as there would be no way to prove a juvenile was informed they are “free to leave.” Based upon age alone they would not be permitted to sign a document indicating that they were informed.
4. Would this also apply to Probation Departments who serve in the capacity of Adult/Juvenile?
5. Would this apply to Sheriffs, Constables, Police Officers, or any other party who have a juvenile in custody for transportation purposes?
6. States have experienced severe decreases in Title II Formula Grant funding over the past few years. This change would impact the size of state’s monitoring universes which in turn would create more monitoring activity with already depleted funding and staffing support.
7. If the goal is to ensure juveniles are not being subjected to a threatening environment or process than all Scared Straight Programs/Prison Preview Tours should now be prohibited altogether. As it currently stands, it would only be a violation if all 3 requirements are in place:
  - a. Under public authority
  - b. Secure portion of the building
  - c. Sight and sound contact
8. When will this guidance include federal law enforcement agencies such as FBI, BIA etc.? It is difficult to implement new guidance when it only effects local, county and state governments but leaves federal entities out of it. If it is federally implemented- why wouldn’t include federal law enforcement?

**The following are hypothetical situations Nevada requests clarification on:**

1. A county PO Department that now serves in the capacity of adult and juvenile. They are located in the same building on the same floor. Would the adult and juvenile offenders need to be tracked, documented, and separated regardless of whether or not they are being held securely?
2. PD has a no secure substation in the university. A juvenile is “detained” for underage drinking – would the PD be prohibited from detaining this juvenile within the substation?
3. A runaway who is taken to the police department late at night/early in the morning whose parents decline to pick him/her up (or who are slow to pick him/her up)...my reading on this is that if police detain the juvenile, they would be in violation. By adding a disorderly conduct they can keep the juvenile. Our concern is net widening.

4. Airport Police Department comes across a juvenile that has run away from home and is trying to purchase a plane ticket. Would the Airport PD be prohibited from “detaining” the juvenile until a parent arrives to pick them up?
5. Will we now have to monitor schools that have Resource Officers?

Nevada is considered a frontier state with long distances between most towns. This increases the time it takes to complete an on-site audit and fiscal impact. As we did receive the clarification during our phone call that since Nevada has some very small and remote one room “stations” with no cuffing rails, no cells and no ability to hold someone securely, we asked the question and were told that if there is no ability to hold securely in a police station, the new guidance does not apply. Please provide written guidance on this situation.

Respectfully submitted,

Pauline Salla  
Nevada Juvenile Justice Specialist