



# **NEVADA'S COMPLIANCE MONITORING POLICY AND PROCEDURE MANUAL**

Effective November 2020

Added Virtual Inspection of Facilities

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## NEVADA'S COMPLIANCE MONITORING POLICY TIMELINE

Date Issued:	April 2009
Date Revised:	December 2012 December 2015 January 2017 July 2018 January 2019 June 2019
Last Review:	November 2020
Effective Date:	October 2020
Next Scheduled Review:	November 2021

## **AUTHORITY AND FEDERAL GUIDANCE**

- Federal Law:
  - Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 as amended through P.L. 115-385, enacted December 21, 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 1974, as amended
- 42 U.S.C. § 5633
- 28 C.F.R. § 31.303

## 1.0 INTRODUCTION

The Juvenile Justice and Delinquency Prevention Act (JJDP) was first authorized in 1974. It was established to ensure states and territories meet certain common standards for how youth across the country are treated in the justice system. The Act was last reauthorized in 2002 and expired in 2007. On December 13, 2018, Congress passed H.R. 6964, the Juvenile Justice Reform Act of 2018 (the Act) with overwhelming bipartisan support.

Please note, the Act itself is the Juvenile Justice Delinquency Prevention Act (JJDP) and will continue to be referred to as such. The legislation that amended the Act was the Juvenile Justice Reform Act of 2018 (JJRA)<sup>1</sup>.

In Nevada the Division of Child and Family Services (DCFS) is the state agency responsible for maintaining compliance with this policy. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is the federal oversight agency.

1. **Deinstitutionalization of Status Offenders:** Juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.
2. **Jail Removal/Sight and Sound:** Under the reauthorized statute, youth held in adult jails, including those charged as adults, must be removed to juvenile detention centers no later than three (3) years after the date of enactment, states are required to ensure sight and sound separation and jail removal for youth awaiting trial as adults. This protection previously applied only to youth being held on juvenile court charges. An exception continues to exist for cases where a court finds, after a hearing and in writing, that it is in the interest of justice.
3. **Racial and Ethnic Disparities:** Changes the Disproportionate Minority Contact (DMC) requirement to focus on Racial and Ethnic Disparities (RED). Requires that states collect and analyze data on racial and ethnic disparities. Requires states to determine which points create RED, and establish a plan to address RED.

H.R. 6964 requires that states receive a reduction in funding if they are found to be out of compliance with the core requirements. For each core requirement that a state does not meet, Title II funding (now called Charles Grassley Juvenile Justice and Delinquency Prevention Program) will be reduced by 20%. Funds not administered to the states for non-compliance will be administered as such: fifty percent 50% will be spent on technical assistance to help states come back into compliance, and the other fifty percent 50% will be redistributed to states who are in full compliance with the Act.

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<sup>1</sup> 34 U.S. Code Chapter 11101-11103

## 1.1 DEINSTITUTIONALIZATION OF STATUS OFFENDERS (DSO)

Status offender is now defined as “a juvenile who is charged with or who has committed an offense that would not be criminal if committed by an adult.”

- Runaway
- Incurable
- Truancy
- Curfew
- Possession or Use of Alcohol (*A delinquent offense in the state of Nevada*)

### **DSO Core Requirements:**

Under the Act, status offenders may not be held in a secure detention or confinement. DSO violations can only occur in facilities which are defined as an area used to confine individuals overnight which has beds, showers and toilets (secure juvenile detention center). Status offenders that are being held non-securely until a parent or guardian can pick them up, or for transport, are excluded from the JJDP core requirements. The Act and federal regulations limit exceptions to this requirement, including a provision that allows accused status offenders to be detained and securely held in a correctional facility for juveniles or a secure detention facility for juveniles for twenty-four (24) hours (excluding weekends and holidays) or more before an initial court appearance, following an initial court appearance or for investigative purposes. If a status offender is held beyond the twenty-four (24) hours, this constitutes a DSO violation.

1. No status offender or non-offender may be placed in an adult secure setting for any period of time. If they are, information about this placement shall be recorded on the Juvenile Summary in Adult Jails and may be counted as a violation of both the DSO and Jail Removal core requirements. Therefore, one (1) status offender or non-offender placed in an adult secure setting may count as two (2) violations.
2. Law enforcement may complete the booking process of a status offender or non-offender in a secure booking area *only* if there is no unsecured booking area available, the juvenile is under continuous visual supervision, there are no adult offenders present and the juvenile is immediately removed from the secure booking area to a non-secure area for questioning or further processing. If these conditions are not met, the juvenile is in a “secure setting” making it a violation.
3. A status offender or non-offender may be handcuffed to themselves but cannot be handcuffed to a stationary object. If the juvenile is handcuffed to a stationary object, the juvenile or non-offender is in a “secure setting” making it a violation.
4. A status offender or non-offender may be placed in an interview room, conference room, office, or lobby. If any of those areas are locked from the outside restricting the juvenile’s ability to leave; the juvenile or non-offender is in a “secure setting” making it a violation.
5. A status offender or non-offender is in non-secure custody if they are under continuous visual law enforcement supervision and physical restriction of movement or activity is provided solely through facility staff (staff secure).
6. Any juvenile in a police car, or other vehicle in law enforcement control, is in non-secure custody. This is not a violation.

Information on any status offender who is placed in adult secure custody shall be recorded on the *Juvenile Summary in Adult Jails Form* are provided to the Programs Office annually or more often if the occurrences become more frequent.

## **Statutory Exceptions:**

Statutory exceptions allow states to remove from consideration, for compliance purposes, offenses that constitute the violation of a Valid Court order or a violation of Section 922(x)(2) of Title 18,<sup>1</sup> United States Code, or similar State laws;

1. Possession of a Handgun/Firearm
2. Valid Court Order
  - a. H.R. 6964 clarifies, for the first time, what constitutes a valid court order for the purpose of detaining a juvenile charged with a status offense. The Act states that if a court determines a juvenile charged with a status offense should be placed in a secure detention facility or correctional facility for violating a valid court order the court must issue a written order that contains the following information:
    - b. The court must identify the valid court order that has been violated.
    - c. The court must specify the factual basis for determining that there is “reasonable cause to believe that the status offender has violated such order”.
    - d. The court must include “findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile”; and
    - e. The court must specify the length of time, not to exceed seven (7) days, that the juvenile may remain in a secure detention facility or correctional facility and must include a plan for their release from the facility.
    - f. An order to detain a juvenile charged with a status offense may not be renewed or extended; and “the court may not issue a second or subsequent order relating to a status offender unless the status offender violated a valid court order after the date on which the court issues an order.”
3. Out of State runaways when held pursuant to the Interstate Compact
  - a. Juveniles held in accordance with the Interstate Compact are exempt from the DSO mandate and can be securely held for greater than Twenty-four (24) hours solely for the purpose to be returned to the proper custody of another state.

Note: See valid court order guidance in Appendix A.

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<sup>1</sup> It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile – A handgun; or ammunition that is suitable for use only in a handgun.

## 1.2 JAIL REMOVAL/SIGHT AND SOUND SEPARATION

Juveniles must be kept sight and sound separated from adult inmates (including trustees) at all times. Sight contact is clear visual contact between adult inmates and juveniles within close proximity to each other. Sound contact is direct oral communication between adult inmates and juvenile offenders.

The following H.R. 6964, definitions are now being defined as.

1. **Contact** - Sight or Sound Contact.
2. **Jail or Lockup for Adults** – A secure facility that is used by a State, unit of local government, or law enforcement authority to detain or confine adult inmates.
3. **Sight or Sound Contact** – Any physical clear visual, or verbal contact that is not brief and inadvertent.
4. **Adult Inmate** – Means and individual who:
  - a. Has reached the age of full criminal responsibility under applicable State law; and
  - b. Has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense

Jail removal provides that no juvenile shall be detained or confined in any jail or lockup for adults. The Jail Removal requirement has limited statutory exceptions.

Not later than three (3) years after the date of enactment of the Juvenile Justice Reform Act of 2018, unless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility –

1. Shall not have sight or sound contact with adult inmates; and
2. May not be held in any jail or lockup for adults.
3. Determine whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have sight or sound contact with adult inmates, a court shall consider –
  - a. The age of the juvenile.
  - b. The physical and mental maturity of the juvenile.
  - c. The present mental state of the juvenile, including whether the juvenile presents an imminent risk of self-harm.
  - d. The nature and circumstances of the alleged offense.
  - e. The juvenile’s history of prior delinquent acts.
  - f. The relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth.
  - g. Any other relevant factor.
4. If the court determines under clause that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults –
  - a. The court shall hold a hearing no less than once every thirty (30) days, or in the case of a rural jurisdiction, no less than once every forty-five (45) days, to review whether it is still in the interest of justice to permit the juvenile to be held or have sight or sound contact;
  - b. The juvenile shall not be held in any jail or lockup for adults or permitted to have sight or sound contact with adult inmates, for more than one hundred and eighty (180) days, unless the court, in writing, determines there is good cause for an extension, or the juvenile expressly waives this limitation; and



- c. Youth who are held in adult facilities under the interest of justice exception will still be protected by the Prison Rape Elimination Act's (PREA) Youthful Inmate provision, which guarantees sight and sound separation between adult inmates and inmates under eighteen (18) years of age.
5. Juveniles alleged to be or found to be delinquent or juveniles within the purview of paragraph eleven (11)<sup>1</sup> will not be detained or confined in any institution in which they have sight and sound contact with adult inmates; and
6. The state has in effect a policy that requires individuals who work with both juveniles and adult inmates, including in collocated facilities, have been trained and certified to work with juveniles.
7. Provide that no juvenile will be detained or confined in any jail or lockup for adults except:
  - a. Juveniles may be held up to six (6) hours, which starts the minute that the juvenile enters a secure setting. If the juvenile is temporarily removed from the secure setting, but is then placed back in the secure setting, the six (6) hour clock does not stop for the time that they were un a non-secure setting. When a delinquent is taken out of a secure setting to be taken to court, the six (6) hour clock continues, the six (6) hour clock included the time in court but does NOT include the transport time.
  - b. Juveniles who are accused of non-status offenses, and are awaiting an initial court appearance that will occur within forty-eight (48) hours after being taken into custody (excluding weekends and holidays), and who are detained in an adult jail or lockup in which:
    - Juveniles do not have sight or sound contact with adult inmates; and
    - Are located outside a metropolitan statistical area (Rural Exception) and has no existing acceptable alternative placement available.
    - Located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within forty-eight (48) hours (excluding weekends and holidays) so that a brief (not to exceed an additional forty-eight (48) hours) delay is excusable; or
    - Located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;

Information on any delinquent offender who is placed in adult secure custody shall be recorded on a *Monthly Juvenile Summary for Adult Facilities Form* and provided to DCFS staff annually or more often if the occurrences become more frequent.

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<sup>1</sup> H.R. 6964 Section 223 (11)(a) In accordance with rules issued by the Administrator, provide that a juvenile shall not be placed in a secure detention facility or a secure correctional facility.

### **1.3 RACIAL AND ETHNIC DISPARITIES (RED)**

H.R. 6964 now uses the more widely accepted and accurate term “racial and ethnic disparities,” instead of “disproportionate minority contact.” RED is defined as “minority youth populations being involved at a decision point in the juvenile justice system at disproportionately higher rates than non-minority youth.”

JJDPA added the term “ethnicity” alongside references to race in the Act, which now clarifies that officials must consider both race and ethnicity in efforts to reduce disparities.

Lastly JJDPA is more specific about expectations of states to implement policy, practice, and system improvement strategies to identify and reduce racial and ethnic disparities with the juvenile justice system.

JJDPA now requires states to:

1. Establish or designate an existing coordinating body, composed of juvenile justice stakeholders (including representatives of the educational system) at the State, local, or tribal levels, to advise efforts by states, units of local governments, and Native American tribes to reduce racial and ethnic disparities.
2. Identify and analyze data on race and ethnicity at decision points in state, local, or tribal juvenile justice systems to determine which points create racial and ethnic disparities among youth who come into contact with the juvenile justice system.
3. Develop and implement a work plan with measurable objectives for policy, practice, or other system changes based on the needs identified in the data collection and analysis of racial and ethnic disparities.
4. Include a tribal representative in State Advisory Groups when available or another individual with significant expertise in tribal law enforcement and juvenile justice in tribal communities.

### **2.0 TITLE II FORMULA GRANT ELIGIBILITY AND THREE-YEAR PLAN**

Title II – has been renamed to the Charles Grassley Juvenile Justice and Delinquency Prevention Program. To be eligible to receive formula grant funding, a State shall designate one agency to prepare and administer a comprehensive Three-Year Juvenile Justice and Delinquency Prevention plan, establish a State Advisory Group (SAG) appointed by the Governor or other chief executive officer to provide policy direction, participate in preparing and administering the Formula Grants program plan, and commit to achieve and maintain compliance with the following core requirements of the JJDP Act:

1. Address racial and ethnic disparities (RED) within the juvenile justice system.
2. Deinstitutionalization of status offenders (DSO).
3. Jail Removal/ Sight and Sound Separation

The grant application includes:

1. A comprehensive Three-Year Plan or annual update in years two (2) and three (3) of the three-year cycle,
2. Annual compliance data and supporting documentation.

In the first fiscal year of the three-year cycle, states shall submit (as part of the Title II grant application submitted through OJP’s GMS) a comprehensive Three-Year Plan. The Three-Year Plan is updated annually

to report on any new or modified state programs, projects, and activities. More specifically, states shall submit a Three-Year Plan that, among other things:

1. Addresses the Formula Grant Program requirements [required by Section 223(a) of the JJDP Act and OJJDP’s Formula Grant regulations.<sup>1</sup>
2. Provides for an adequate system of monitoring adult jails, lockups, secure detention facilities, secure correctional facilities to ensure that states are following the DSO, Jail Removal/Sight and Sound requirements,
3. Provides a system for the annual reporting of the results of such monitoring to the OJJDP Administrator.<sup>2</sup>
4. Addresses the DSO, Jail Removal/Separation requirements, including a narrative that indicates how the state meets—or does not meet—criteria for compliance with de minimis exceptions where the state’s rate of non-compliance exceeds established regulatory limits; and
5. Addresses RED requirement.

Step	Due Date
Title II Solicitation	January
Title II Grant Application Due	March
Projected Award Date	No later than September 30

## **2.1 CERTIFICATION FOR COMPLIANCE WITH TITLE II**

The State ensures that submitted compliance data and supporting materials are complete and fully address the requirements for OJJDP compliance determinations. The State will be required to certify that the information submitted to OJJDP for compliance determination purposes is valid and accurate. This certification is done as part of the electronic submission through OJJDP’s Compliance Reporting System and shall be completed by the head of the designated state agency authorized to apply for Title II Formula Grant funds.

The compliance certification applies to all facilities identified in the compliance universe and includes facilities that are both publicly and privately owned.

The facilities shall cooperate with gathering and providing data and shall make an adequate effort toward addressing identified violations. (With the governor’s executive order in place, facilities understand the importance of their full cooperation).

Once the State is awarded Title II Formula Funds, the compliance monitor shall ensure that these facilities continue to comply. As part of the Title V grants program, a plan shall be in place which will identify and discontinue all Title V grants that fall out of compliance.

<sup>1</sup> 28 CFR 31.303(c); 28 CFR 31.303(d); 28 CFR 31.303(e); and 28 CFR 31.303(j)];

<sup>2</sup> [Section 223(a) (14) of the JJDP Act, and 28 CFR 31.303(f)];

## Procedures

1. Annually, OJJDP will send out an announcement of available funds, stipulating that prior to receiving an application, the State shall submit a complete compliance report which is complete, accurate and certified using the Performance Measurement Tool.
2. The compliance monitor will complete the report using the most recent twelve (12) months of the compliance monitoring data and the most current census figures available, which is due annually by January 31st.
3. Once the report is complete, a copy will be reviewed and approved by the Juvenile Justice Oversight Committee (JJOC), prior to submittal to OJJDP.
4. A certification form shall be downloaded, signed, and attached within the Performance Measurement Tool. The DCFS Administrator is the designated signee.
5. The compliance monitor may inform facilities of the importance of their cooperation during onsite inspections or included on annual survey data.

### **3.0 COMPLIANCE MONITORING PLAN**

The State is required to have a written plan that provides for an adequate system of monitoring secure and non-secure<sup>1</sup> facilities that hold juveniles to ensure that the JJDP Act's core requirements are being complied with. This plan shall be reviewed annually.

The Compliance Monitoring Plan shall:

1. Document the existence of written Policies and Procedures governing the implementation of an adequate compliance monitoring system.
2. Document and describe the authority under which the individual tasked with compliance monitoring enters facilities to inspect and collect data from all facilities in the monitoring universe.
3. Describe a procedure and timetable for annually monitoring jails, lockups, detention facilities, and correctional facilities. And non-secure facilities<sup>4</sup>. Describe legislative and administrative procedures and sanctions established for receiving, investigating, and reporting complaints of violations of the JJDP Act core requirements.
4. Provide a description of the barriers the state faces in implementing and maintaining a monitoring system to report compliance with the JJDP Act core requirements and how the state plans to overcome such barriers.
5. Contain definitions used to classify facilities and identify the types of behavior of the juveniles to be counted for monitoring purposes.
6. Document how the state will *identify* all facilities in the state that might hold juveniles pursuant to public authority.
7. Document how the state will *classify* all facilities in the state that might hold juveniles pursuant to public authority.
8. Document how the state will *inspect* facilities to ensure an accurate assessment of the facility's classification has been completed.
9. Document how data collection and on-site data is verified to determine whether facilities follow the JJDP Act core requirements.

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<sup>1</sup>Under H.R. 6964 States must now describe an "effective" system of monitoring for compliance with the core requirements but no longer need to include nonsecure facilities in their monitoring universe. (Section 223 (a)(14)).

The State develops and revises a written plan that provides for an adequate system of monitoring secure and non-secure facilities that hold juveniles to ensure compliance with the core requirements of the JJDP Act. It will be referred to as the Compliance Monitoring Plan.

The monitoring barriers, the legislative and administrative violation procedures, the detailed description of the monitoring tasks, the monitoring authority and the use of the federal definitions exclusively in compliance monitoring are addressed in the following policy.

### **3.1 MONITORING AUTHORITY**

The state shall have legal authority to monitor all facilities in which juveniles might be placed under public authority. The monitoring authority requires each facility that could be classified as secure to be inspected for classification purposes, to maintain specific juvenile admission and release records and permit the designated compliance monitor to review these records at selected intervals during the year.

1. The basic authority should give the compliance monitor the right to develop and enforce standards for all secure facilities that might hold juveniles, to inspect the facilities for compliance, to provide the facilities a list of violations, and to request facilities to correct any identified violations.
2. The basic authority should give the compliance monitor the right to review records involving allegations of delinquency and the detention of any youth that would be a crime if committed by an adult, including:
  - a. The nature of the offense allegedly committed and the circumstances immediately surrounding the alleged offense, including the time, location, and property involved.
  - b. The age and sex of any juvenile apprehended or sought for the alleged commission of the offense.
  - c. The identity of a juvenile, if the juvenile is apprehended or sought for the alleged commission of an offense over which a juvenile court does not have jurisdiction.

On May 18, 1994, the Governor of the State of Nevada created an executive order, Pub. L. No. 93-415, which outlines the requirements of the advisory groups and includes a section for monitoring authority. This Order was updated on December 1, 2017 to rename the State Advisory Group the Juvenile Justice Oversight Commission (JJOC). All previous Executive Orders on this subject remain valid.

Page 4, number 3 of the executive order states:

*“Monitor state compliance with the requirements of the Act, including the authority to monitor juveniles incarcerated or potentially incarcerated in adult jails and lockups. To the extent permitted by law, the Division of Child and Family Services Juvenile Justice Programs Chief and/or their Designee shall have, for inspection purposes, access to any secure or non-secure facility that detains, or potentially detains minors. If the facility is required to keep a log, a copy of the log, and any related documentation requested, shall be submitted to the Division of Child and Family Services Programs Chief and/or their Designee monthly.”*

*Appendix B: Governor’s Executive Order*

### **3.2 COMPLIANCE MONITORING BARRIERS AND STRATEGIES**

A description of the barriers faced in implementing a monitoring system as well as the state and local strategies and plans to overcome those barriers are necessary to maintain integrity within the compliance monitoring plan and system.

The State will plan and organize quarterly meetings of the JJOC. A portion of the agenda will be set aside to discuss current compliance status, the barriers to compliance, and to develop state and local strategies to overcome the barriers. Discussions will be recorded in minutes.

1. The compliance monitor will submit items for discussion and action on the:
  - a. Barriers faced in implementing and maintaining a monitoring system and barriers faced in maintaining compliance with the JJDP Act.
  - b. Recommendations for state and local strategies and plans to overcome those barriers.
2. A written compliance plan will be developed separately which will address the barriers to compliance.
3. The compliance monitor will implement the written plan and will provide written and oral updates to the Commission, as requested, during regular Commission meetings which are held four (4) times a year.

### **3.3 COMPLIANCE VIOLATION PROCEDURES**

A compliance monitoring system shall be established to monitor secure and non-secure facilities to ensure that those facilities follow the core protections of the JJDP Act and Formula Grant Regulations. The State shall outline administrative procedures which are used to receive, investigate, and respond to reports of compliance violations.

Inspections or other mechanisms which identify incidences of non-compliance, or other deficiencies which may be dangerous to confined juveniles, are only of value if the State can work to eliminate identified violations and prevent future violations.

#### Requirement:

The Compliance Monitoring Plan includes the description of the legislative and administrative procedures established for receiving, investigating, and reporting complaints of JJDP Act violations of the DSO, jail removal/sight and sound separation requirements. The description also includes sanctions.

The Compliance Monitor is the primary agent to receive, investigate, and respond to alleged compliance violations throughout the state.

#### Procedures:

The compliance monitor will be the primary agent to discover and report compliance violations throughout the state, and to investigate the violations.

Violations are identified through the detailed review of juvenile holding cell logs.

1. The review may occur either onsite when the compliance monitor reviews the logs or when the facility e-mails the logs to the Juvenile Justice Program Office.

2. If the Juvenile Justice Programs Office (JJPO) receives an independent compliance violation report, the compliance monitor will investigate it and make the final determination on if it is in fact a violation.

The investigation will include a review of the juvenile’s case file at the facility to confirm that a violation occurred by reviewing Juvenile Holding Cell log entries for verification of a violation.

A written report will be completed on any confirmed violation with a copy kept in JJPO and a copy sent to the facility administrator or contact.

The Juvenile Justice Specialist may provide updates of confirmed violations at Commission meetings.

### 3.4 DESCRIPTION OF REQUIRED OJJDP COMPLIANCE MONITORING TASKS

The Compliance Monitoring Plan includes a detailed description and timetable of the following compliance monitoring tasks which include:

1. Identification of the Monitoring Universe
2. Classification of the Monitoring Universe
3. Secure or non-secure facility certification
4. Inspection of Facilities – at least 30% annually
5. Annual data collection through self-reporting survey’s and on-site reviews
6. Data Verification

Step	Due Date
Reporting Period	October 1 – September 30
Compliance Data Due to OJJDP	February 28 (covering previous Federal fiscal year)

The timetable will be presented to the JJOC for Review and approval.

Task	Time Frame	Responsible	Process
Identification of Monitoring Universe & Review of Compliance Manual	June – Oct	Compliance Monitor/JJ Specialist	Review previous years monitoring universe and look for any new facilities or identify facilities that have closed. It is an annual requirement to update new contact names for each facility.  Update secure/non-secure classification annually.
Annual Survey Period	October 1 – January 30	Compliance Monitor/JJ Specialist Staff	Using a current list of the compliance universe, surveys will be sent to the contact person of 100% of those facilities identified in the compliance universe. The information collected, via the surveys, pertaining to the identification of facilities that hold juveniles under court jurisdiction will be recorded on the appropriate spreadsheet or database.
Classification of the Monitoring Universe	October 1 – January 30	Compliance Monitor/JJ Specialist Staff	The information collected from the surveys will be recorded as 1. private or public. 2. juvenile, adult, or collocated; and 3. The self-reported classifications of all facilities new to the compliance monitoring universe will be verified via on-site inspection. The classification of “collocated” shall be reviewed annually.

Annual On Site Visit Period	October 15 – February 15	Compliance Monitor/JJ Specialist Staff	The main contact at each facility will be contacted to schedule an onsite inspection. The following will be performed at each inspection: 1. review the physical accommodations. 2. obtain facility layout. 3. obtain facility’s policies and procedures. 4. determination how each facility maintains its records. 5. review or obtain admissions records identifying youth under 18 only; and 6. if training and technical assistance is needed.
Annual Data Collection	Annually	Compliance Monitor/JJ Specialist Staff	1. 100% of the state’s secure facilities will be sent an annual survey along with any follow up until 100% of surveys are returned. 2. on-site inspections will occur according to facility type. (3) at least 10% of juvenile detention facilities will be reviewed annually, (4) at least 10% of juvenile correctional facilities (including Department of Correction facilities will be inspected annually. (5) at least 10% of all adult jails and lockups will be inspected annually, (6) at least 10% of all court houses or court holdings will be inspected annually, (7) all co-located facilities will be inspected annually, and (8) all adult facilities are required to report status offences (DSO) monthly.
Data verification	Annually	Compliance Monitor/JJ Specialist Staff	Data verification will be done for all facilities selected for on- site inspections. All facilities will be reviewed every three (3) years.

### 3.5 DEFINITIONS

#### Federal/OJJDP Definitions

**The state utilizes the federal definitions from OJJDP for compliance.**

In classifying facilities and identifying the types of behavior of the juveniles to be counted for monitoring purposes, governmental units need to operate under definitions that are compatible with those found in the Formula Grants Regulation. Preferably, compatible definitions will be included in the state code. Where this is not the case, monitoring agencies should adopt and follow the OJJDP definitions for monitoring.

**Adjudication:** A court process that determines if the juvenile committed the act for which they’re charged. The term “adjudicated” is analogous to “convicted” and indicates that the court concluded the juvenile committed the act.

**Administrator:** The agency head.

**Adult Inmate:** An individual who has reached the age of full criminal responsibility under applicable State Law or been arrested and is in custody for or awaiting trial on a criminal charge or is convicted of a criminal offense. It does not include an individual who at the time of the offense, was younger than the maximum age at which a youth can be held in a juvenile facility under applicable State law; and was committed to the care and custody or supervision, including post-placement or parole supervision, of a juvenile correctional agency by a court or applicable State law.



**Adult Jail or Police Lock-Up:** In a locked (secure) facility that is used by a State, unit of government, or any law enforcement authority to detain or confine adults:

1. Pending the filing of a charge of violating a criminal law.
2. Awaiting trial on criminal charge; or
3. Convicted or violating a criminal law.

**Advisement:** Occurs when the court tells the accused juvenile what their rights are. This event, or the list of rights read at it, might also be called the “Advisement of Rights.” The advisement must take place during the child’s first court appearance.

**Arrest:** Hold time in legal custody, either at the scene of a crime or as a result of investigations. Arrest also can be the result of a complaint filed by a third party, an outstanding warrant, or a revocation of probation or parole.

**Assessment:** Includes, at a minimum, an interview and review of available records and other pertinent information:

1. By an appropriately trained professional who is licensed or certified by the applicable State in the mental health, behavioral health, or substance abuse fields; and
2. Is designed to identify significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth’s confinement.

**Case Rate:** Number of cases disposed per 1,000 juveniles in the population. The population base used to calculate the case rate varies. For example, the population base for the male case rate is the total number of male youth age 10 or older who are under the jurisdiction of the juvenile courts

**Chemical Agent:** A spray or injection used to temporarily incapacitate a person, including oleoresin capsicum spray, tear gas, and 2-chlorobenzalmalononitrile gas.

**Civil Rights Violation:** The violation of a right or rights belonging to a person by reason of citizenship including especially the fundamental freedoms and privileges guaranteed by the 13th and 14th Amendments to the Constitution and subsequent acts of Congress including the right to legal, social, and economic equality

**Collocated Facility:** Facilities that are located in the same building or are part of a related complex of buildings located on the same grounds.

**Combination:** Applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a juvenile justice and delinquency prevention plan.

**Commitment:** A court order giving guardianship of a juvenile to the state department of juvenile justice corrections. The facility in which a juvenile may be placed may be publicly or privately operated and may range from a secure correctional placement to a non-secure or staff-secure facility, group home, foster care, or day treatment setting.

**Community Based:** A facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

**Comprehensive and Coordinated System of Services:**

A system that:

1. Ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety.
2. Identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families.
3. Increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and
4. Encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency.

**Contact:** The points at which a youth and the juvenile justice system or criminal justice system officially intersect, including interactions with a juvenile justice, juvenile court, or law enforcement official.

**Construction:** Acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

**Core Requirements:** The requirements described in paragraphs (11), (12), (13), and (15) of the JJDP Act, but does not include the data collection requirements described in subparagraphs (A) through (K) of section 207(1).

**Correctional Facility:** Any public or private residential facility with construction fixtures or staffing models designed to physically restrict the movement and activities of juveniles or other individuals that is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, or of any individual convicted of criminal offense.

**Court Holding:** A secure facility that is located near or in the same building as the Courthouse, and it:

1. Must be used only for the individual appearing in court.
2. Cannot be used as an overflow or as a secure juvenile holding area for the jail or police lockup.
3. May not be used for punishment.
4. Is only operational during court hours; and
5. Are strictly sight and sound separated from incarcerated adults or adult inmates.

**Court Referral:** A complaint or petition filed with the juvenile court.

**Crime:** Breaking the law and inflicting harm. The victim's perspective, and accountability for the offender, means accepting responsibility coupled with action to repair the harm done.

**Crime Control:** Active involvement of the community to achieve this.

**Dangerous Practice:** An act, procedure, or program that creates an unreasonable risk of physical injury, pain, or psychological harm to a juvenile subjected to the act, procedure, or program.

**Deinstitutionalization of Status Offenders:** Status offenders may not be held in a secure detention or confinement. DSO violations can only occur in residential facilities which are defined as an area used to confine individuals overnight which has beds, showers and toilets (secure juvenile detention center). Status offenders that are being held non-securely until a parent or guardian can pick them up, or for transport, are excluded from JJDP core requirements. The Act and federal regulations limit exceptions to this requirement, including a provision that allows accused status offenders to be detained and securely held in a correctional facility for juveniles or a secure detention facility for juveniles for twenty-four (24) hours (excluding weekends and holidays) or more before an initial court appearance, following an initial court appearance or for investigative purposes. If a status offender is held beyond the twenty-four (24) hours, this constitutes a DSO violation.

- The JJDP Act provides that status offenders found to have violated a Valid Court Order may be securely detained in a juvenile detention or correctional facility under an exception to Section 223(a)(12)(A). The definition of a Valid Court Order, under Section 103(16) of the JJDP Act, provides that before a disposition of placement in a secure detention facility or a secure correctional facility is entered, an appropriate public agency (other than a court or law enforcement agency) shall review the case and submit a written report to the court. The implementing regulation provided an example of a multidisciplinary review team as an appropriate public agency.

**Delinquent:** A juvenile who has been charged with, or adjudicated for, any conduct that would be criminal if committed by an adult.

**Detained or Confined:** To hold, keep, or restrain a person such that they are not free to leave, except that a juvenile held by law enforcement solely for the purpose of returning the juvenile to their parent or guardian or pending their transfer to the custody of a child welfare or social services agency is not detained or confined within the meaning of this definition. Transfers to court or secure juvenile detention centers are NOT included in the exception.

**Detention:** Usually refers to the placement of youth in a secure facility under court authority at some point between the time of referral to court intake and case disposition. Detention prior to case disposition is known as pre-dispositional detention. At times there is a need for detention after sentencing, known as post-dispositional detention. The reasons for post-dispositional detention generally include awaiting placement, short-term sentencing to detention, or being a danger to self or others.

**Detention Facility:** A secure pre-dispositional/post-dispositional public or private facility (local or regional) with construction fixtures or staffing models designed to physically restrict the movements and activities of juveniles or other individuals that is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or of any other individual convicted of a criminal offense. There are generally three types of detention centers: local, regional, and state. Local facilities are owned and operated by one local political jurisdiction. Regional facilities are owned and operated jointly by

more than one local political jurisdiction; these facilities are eligible to receive youth from each member jurisdiction. State facilities are owned and operated by a state agency; these facilities are eligible to receive youth from designated (or all) localities within the state.

**Detention Hearing:** Any hearing requesting a juvenile to be held in detention, or continued to be held in detention, pending further court action(s) within the same jurisdiction or another jurisdiction. Only record a detention hearing if held.

**Diversions:** A mechanism designed to hold youth accountable for their actions by sanctioning behavior and in some cases securing services, but at the same time generally avoiding formal court processing in the juvenile justice system.

**Disposition:** Sanction ordered, or treatment plan decided upon or initiated in a particular case by a juvenile court. The range of options available to a court typically includes commitment to an institution; placement in a group or foster home or other residential facility; probation (either regular or intensive supervision); referral to an outside agency, day treatment, or mental health program; or imposition of a fine, community service, or restitution.

**Evidence-Based:**

A program or practice that is;

1. Demonstrated to be effective when implemented with fidelity.
2. Based on a clearly articulated and empirically supported theory.
3. Has measurable outcomes relevant to juvenile justice, including a detail description of the outcomes produced in a particular population, whether urban or rural; and
4. Has been scientifically tested and proven effective through randomized control studies or comparison group studies and with the ability to replicate and scale.

**Facility:** A place, an institution, a building (or part thereof), set of buildings or an area whether 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.

**Federal Juvenile Delinquency Program:** Any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act.

**Graduated Sanctions:** Accountability based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system.

**Gender Specific Services:** Services designed to address needs unique to the gender of the individual to whom such services are provided. Promote healthy attitudes, behaviors, and lifestyles, and promote social competence in girls. Key program elements generally address issues in the context of relationships to peers, family, school, and community.

**Home-based Alternative Services:** Services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile and includes home detention.

**Indian Tribe** *(for the purpose of title II):*

1. A federally recognized Indian tribe; or
2. An Alaskan Native organization: that has a law enforcement function, as determined by the Secretary of the Interior in consultation with the Attorney General.

**Institution:** A secure facility that is used by law enforcement or a juvenile or criminal justice authority to detain or confine juveniles or adult inmates:

1. Accused of having committed a delinquent or criminal offense.
2. Awaiting adjudication or trial for the delinquent or criminal offense; or
3. Found to have committed a delinquent or criminal offense.

A secure facility must include construction features designed to physically restrict the movements and activities of persons in custody, such as locked rooms, cells, cuffing benches/rings, or an outdoor perimeter fence.

**Internal Controls:** A process implemented to provide reasonable assurance regarding the achievement of objectives for effectiveness and efficiency of operations, such as grant management practices; reliability of reporting for internal and external use; and compliance with applicable laws and regulations, as well as recommendations of the Office of Inspector General and the Government Accountability Office.

**Isolation:** Any instance in which a youth is confined alone for more than fifteen (15) minutes in a room or cell. This does not include.

1. Confinement during regularly scheduled sleeping hours.
2. Separation based on a treatment program approved by a licensed medical or mental health professional.
3. Confinement or separation that is requested by the youth; or
4. Separation of the youth from a group in a nonlocked setting for the limited purpose of calming.

**Jail:** A locked facility, administered by state, county, or local law enforcement and correctional 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.

**Jail and Lockup Removal:** A juvenile cannot be detained in any adult jail or lockup. Although not expressly provided in the prior regulation, OJJDP policy provided an exception to the jail and lockup removal requirement: an alleged delinquent could be detained, while separate from adults, for up to six hours for the purposes of identification, processing, and to arrange for release to parents or transfer to a juvenile facility. The regulation codifies this exception and extends it to include a six-hour time period both immediately before and after a court appearance, provided that the juvenile has no sight or sound contact with incarcerated adults during the time the juvenile is in a secure custody status in the adult jail or lockup.

**Jail or Lockup for Adults:** A secure facility that is used by a State, unit of local government, or law enforcement authority to detain or confine adult inmates.

**Juvenile:** Refers to any individual under the age of 18 or is still under the jurisdiction of the juvenile court.

**Juvenile Delinquency Program:** Any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity designed to reduce known risk factors for juvenile delinquent behavior, provides activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior.

**Juvenile 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.

**Juvenile Justice Specialist:** OJJDP refers to their state contact as a Juvenile Justice Specialist. In Nevada, it is the Juvenile Justice Program Chief.

**Juvenile Justice and Delinquency Prevention Act:** Congress enacted the Juvenile Justice and Delinquency Prevention (JJDP) Act in 1974 and [reauthorized](#) the majority of its provisions in 2018. The JJDP Act mandates that states comply with four core protections to participate in the JJDP Act's Formula Grants program. This landmark legislation established OJJDP to support local and state efforts to prevent delinquency and improve the juvenile justice system.

**Law Enforcement and Criminal Justice:** Any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

**Length of Stay:** The length of time that a juvenile stay (is enrolled) in service or placement (in days). The length of stay (LOS) is a critical ingredient in projections of juvenile custody populations. A corrections or detention population can change dramatically if a facility's LOS begins to change, even if admissions are stable. The LOS is calculated by counting the number of days from the start date to the end date and calculating each person's LOS for a given time period. LOS is usually calculated on those youth who end a service/placement during the reporting period. The LOS total is divided by the number of stays to produce the average length of stay. See Average length of stay (ALOS).

**Minor in Consumption (MIC):** Possession, use, or consumption of alcohol by minor.

**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 juvenile.

**Nonprofit Organization:** An organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

**Non-Secure Custody:** The following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in a building that houses an adult jail or lockup facility:

1. The area(s) where the juvenile is held is an unlocked multi-purpose 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 a 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 and for the purposes of identification, investigation, processing, release to parent, 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 shall 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.

**Non-Secure Facility:** Has no capability to hold anyone securely (there are no cells, locked rooms, cuffing benches, or secure perimeter fences). A Sheriff's office or Police Department that is non-secure is classified as a "non-secure" facility and not as an "Adult Jail or Lock-Up."

**Performance Measure:** Performance measures help administrators improve quality of services by:

1. Setting priorities for staff and incentives for changing focus.
2. Tracking progress and improvement in achieving goals.
3. Prioritizing new or previously neglected stakeholders.
4. Directing resource allocation towards accomplishment of mission objectives; and
5. Fine tuning and strengthening practice.

**Placement Status:** Identifies categories of juveniles held in residential placement facilities.

1. **Committed** - Includes juveniles in placement in the facility as part of a court-ordered disposition. Committed juveniles include those whose cases have been adjudicated and disposed in juvenile court and those who have been convicted and sentenced in criminal court.
2. **Detained** - Includes juveniles held prior to adjudication while awaiting an adjudication hearing in juvenile court, as well as juveniles held after adjudication while awaiting disposition or awaiting placement elsewhere. Also includes juveniles awaiting transfer to adult criminal court or awaiting a hearing or trial in adult criminal court.
3. **Diversions** - Includes juveniles sent to the facility in lieu of adjudication as part of a diversion agreement.

**Probable Cause Hearing:** In the context of the VCO Exception, the reasonable cause hearing (also referred to as a probable cause hearing or preliminary hearing) is a court proceeding held by a judge to determine whether there is sufficient cause to believe that a juvenile status offender accused of violating a valid court order and to determine the appropriate placement of such juvenile pending disposition of the violation alleged.

**Public Agency:** Any State, unit of local government, combination of such States or units, or any department, agency, instrumentality of any of the foregoing.

**Racial and Ethnic Disparity (RED):** Minority youth populations are involved at a decision point in the juvenile justice system at disproportionately higher rates than non-minority youth at that decision point.

**Recidivism:** According to *Juvenile Offenders and Victims: 2014 National Report*, a report funded by the [Office of Juvenile Justice and Delinquency Prevention \(OJJDP\)](#): "There is no national recidivism rate for juveniles. Each state's juvenile justice system differs in organization, administration, and data capacity. These differences influence how states define, measure, and report recidivism rates.

**Re-offend:** A measure of recidivism that counts the number of youths who were rearrested **or** seen at juvenile court (intake) for a new delinquent offense. While there is no commonly accepted measure of recidivism, it is generally measured at one of four (4) access points in the juvenile justice process: arrest, intake, adjudication or incarceration. The measure of reoffending used here applies to youth at either of the first two (2) access points. Both of these access points have many advantages for measuring reoffending, but each also has disadvantages. Arrests may identify youth who were later released by the police, whose charges were dismissed by the courts, or who were found not guilty at an adjudication hearing. On the other hand, intakes can overrepresent the number of youths brought before the court more so than arrests because cases can be referred to court intake by a number of sources besides law enforcement agencies. Nevertheless, arrest and intake are used here in order to provide flexibility to the user.

**Related Complex of Buildings:** Two or more buildings that share physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.

**Residential Facility:** An area used to confine individuals overnight, and may include sleeping, shower, and toilet, and a day room area. It must be open twenty-four (24) hours.

**Residential Placement:** Includes cases in which youth are placed in a residential correctional or treatment facility because they are awaiting adjudication or have been adjudicated for an offense, and cases in which youth are otherwise removed from their homes and housed out-of-home (e.g., child abuse, abandonment, running away). Residential placements can include secure confinement, residential treatment facilities, non-secure confinement, group homes, foster care, shelter care, etc.

**Rural:** An area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

**Restraints:** Has the meaning given that term in section 591 of the Public Health Service Act (42 U.S.C.

**Rural:** An area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

**Screening:**

A brief process:

1. Designed to identify youth who may have mental health, behavioral health, substance abuse, or other needs requiring immediate attention, intervention, and further evaluation: and
2. The purpose of which is to quickly identify a youth with possible mental health, behavioral health, substance abuse, or other needs in need of further assessment.

**Secure:** As used to define a detention or correctional facility this term includes residential facilities which include construction fixtures 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.

**Secure Correctional Facility:** Any public or private residential facility which:

1. Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.
2. Is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any non-offender, or any other individual convicted of a criminal offense.

**Secure Detention Facility:** Any public or private residential facility which:

1. Includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.
2. Is used for the temporary placement of any juvenile who is accused of having committed an offense, of any non-offender, or of any other individual accused of having committed a criminal offense.

**Serious Crime:** A criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem, kidnapping, aggravated assault, drug trafficking, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony;

**Sight or Sound Contact:** Any physical, clear visual, or verbal contact that is not brief and inadvertent.

**Sight and Sound Separation:** Secure custody status is when a juvenile offender is physically detained or confined in a locked room or area. Secure detention or confinement may result either from being placed in such a room or area and/or being physically secured to a cuffing rail or other stationary object. Separation shall be accomplished architecturally or through policies and procedures in all secured areas. Sight contact is when a juvenile has clear visual contact with an incarcerated adult within proximity. Sound contact is when a juvenile can have direct oral communication with an incarcerated adult. In accordance youth OJJDP policy the state shall assure that no juvenile offender shall enter, under public authority, for any amount of time, into a secure setting or secure section of any jail, lockup, or correctional facility as a disposition of an offense or as a means of modifying their behavior.

**Staff Secure Facility:** Is where the physical restriction of movement or activity is provided solely through facility staff. These facilities are considered to be non-secure.

**State:** Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**Status Offender:** A juvenile who has been charged with, or adjudicated for, conduct that would not be criminal if committed by an adult. Status offenders shall not be placed in secure detention. Status offenses include:

- Runaway

- Curfew Violations
- Truancy
- Incurability, or
- Possession of Alcohol/Tobacco

**Three-Year-Plan:** In the first fiscal year of the three-year cycle, states must submit (as part of the Title II grant application) a comprehensive Three-Year Plan. The Three-Year Plan is updated annually to report on any new or modified state programs, projects, and activities. More specifically, states must submit a Three-Year Plan that, among other things:

1. Addresses the Formula Grant program requirements<sup>1</sup>;
2. Provides for an adequate system of monitoring adult jails and lockups, secure detention facilities, secure correctional facilities, court holding facilities, and nonsecure facilities<sup>2</sup>, to ensure that states are in compliance with the DSO, Jail Removal, Sight and Sound Separation requirements;
3. Provides a system for the annual reporting of the results of such monitoring to the JJDP Administrator.
4. Addresses the DSC, Jail Removal/Sight and Sound Separation requirements; and
5. Addresses the RED requirement, including a narrative that indicates how the state is implementing, or planning to implement, the five-phase

**Trauma-Informed means:**

1. Understanding the impact that exposure to violence and trauma have on a youth’s physical, psychological, and psychosocial development.
2. Recognizing when a youth has been exposed to violence and trauma and is in need of help to recover from the adverse impacts of trauma; and
3. Responding in ways that resist traumatization.

**Treatment:** Includes but is not limited to medical, educational, special education, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public, including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and susceptibility to addiction or use.

**Tribal Government:** The governing body of an Indian Tribe.

**Valid Court Order:** A court order given by a juvenile court judge to a juvenile:

1. Who was brought before the court and made subject to such order.
2. Who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States.

**Violent Crime:** Murder or nonnegligent manslaughter, forcible rape, or robbery, or aggravated assault committed with the use of a firearm.

**Waivered to Criminal Court:** Cases transferred to criminal court as the result of a judicial waiver hearing in juvenile court.

**Unit of Local Government:** Any city, county, township, town, borough, parish, village, or other general-purpose political subdivision of a State.

1. Any law enforcement district or judicial enforcement district that is established under applicable State law and has the authority to, in a manner independent of other State entities, establish a budget and raise revenues; or
2. For the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for the District of Columbia or any Trust Territory of the United States.

**Upper Age of Juvenile Court/Jurisdiction:** The oldest age at which a juvenile court has original jurisdiction over an individual for law-violating behavior. It must be noted that within most states there are exceptions to the age criteria that place or permit youth at or below the state's upper age of jurisdiction to be under the original jurisdiction of the adult criminal court. For example, in most states if a youth of a certain age is charged with one of a defined list of what are commonly labeled "excluded offenses," the case must originate in the adult criminal court. In addition, in a number of states, the district attorney is given the discretion of filing certain cases either in the juvenile court or in the criminal court. Therefore, while the upper age of jurisdiction is commonly recognized in all states, there are numerous exceptions to age criteria.

### **State Definitions**

#### **Adjudication/Adjudicatory:**

Per [NRS 62E.010](#), adjudication means:

1. A child who is adjudicated pursuant to the provisions of this title is not a criminal and any adjudication is not a conviction, and a child may be charged with a crime or convicted in a criminal proceeding only as provided in this title.
2. Except as otherwise provided by specific statute, an adjudication pursuant to the provisions of this title upon the status of a child does not impose any of the civil disabilities ordinarily resulting from conviction, and the disposition of a child or any evidence given in the juvenile court must not be used to disqualify the child in any future application for or appointment to the civil service.

#### **Advisement:**

Per [NRS 62D.030](#) advisement means:

1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.
2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in [NRS 171.188](#).
3. Except as otherwise provided in this section, the juvenile court shall appoint an attorney for a child if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.
4. A child may waive the right to be represented by an attorney if:
  - a. A petition is not filed, and the child is placed under informal supervision pursuant to [NRS 62C.200](#); or

- b. A petition is filed, and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly, intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.
5. Except as otherwise provided in subsection 6 and [NRS 424.085](#), if the juvenile court appoints an attorney to represent a child and:
  - a. The parent or guardian of the child is not indigent; the parent or guardian shall pay the reasonable fees and expenses of the attorney.
  - b. The parent or guardian of the child is indigent; the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the ability of the parent or guardian to pay.
6. For the purposes of paragraph (b) of subsection 5, the juvenile court shall find that the parent or guardian of the child is indigent if:
  - a. The parent or guardian:
    - Receives public assistance, as that term is defined in [NRS 422A.065](#);
    - Resides in public housing, as that term is defined in [NRS 315.021](#);
    - Has a household income that is less than 200 percent of the federally designated level signifying poverty;
    - Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or
    - Is housed in a public or private mental health facility; or
  - b. After considering the particular circumstances of the parent or guardian, including, without limitation, the seriousness of the charges against the child, the monthly expenses of the parent or guardian and the rates for attorneys in the area in which the juvenile court is located, the juvenile court determines that the parent or guardian is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.
7. Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in [NRS 7.125](#) and [7.135](#) for attorneys appointed to represent persons charged with criminal offenses.

**Arrest:** An arrest [NRS 171.104](#) is the taking of a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.

**Certification:**

[Per NRS 62B.390.](#)

1. Except as otherwise provided in subsection 2 and [NRS 62B.400](#), upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:
  - a. Except as otherwise provided in paragraph (b), is charged with an offense that would have been a felony if committed by an adult and was fourteen (14) years of age or older at the time the child allegedly committed the offense; or
  - b. Is charged with murder or attempted murder and was thirteen (13) years of age or older when the murder or attempted murder was committed.
2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

- a. Is charged with:
    - A sexual assault involving the use or threatened use of force or violence against the victim; or (2) An offense or attempted offense involving the use or threatened use of a firearm; and
  - b. Was sixteen (16) years of age or older at the time the child allegedly committed the offense.
3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:
    - a. The child is developmentally or mentally incompetent to understand the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or
    - b. The child has substance abuse or emotional or behavioral problems and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.
  4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.
  5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:
    - a. The court to which the case has been transferred has original jurisdiction over the child;
    - b. The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and
    - c. If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

**Child:**

Per [NRS 62A.030](#)

1. "Child" means:
  - a. A person who is less than eighteen (18) years of age;
  - b. A person who is less than twenty-one (21) years of age and subject to the jurisdiction of the juvenile court for an unlawful act that was committed before the person reached eighteen (18) years of age; or
  - c. A person who is otherwise subject to the jurisdiction of the juvenile court as a juvenile sex offender.

**Children in Need of Supervision (CHINS):**

Per [NRS 62A.040](#),

1. CHINS is a who is adjudicated to be in need of supervision pursuant to the provisions of this title, and per [NRS 62B.320](#), except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction in proceedings concerning any child living or found within the county who is alleged or adjudicated to be in need of supervision because the child:
  - a. Is subject to compulsory school attendance and is a habitual truant from school.
  - b. Habitually disobeys the reasonable and lawful demands of the parent or guardian of the child and is unmanageable.

- c. Deserts, abandons or runs away from the home or usual place of abode of the child and is in need of care or rehabilitation.
  - d. Uses an electronic communication device to transmit or distribute a sexual image of himself or herself to another person or to possess a sexual image in violation of [NRS 200.737](#);
  - e. Transmits or distributes an image of bullying committed against a minor in violation of [NRS 200.900](#);
  - f. Violates a county or municipal ordinance imposing a curfew on a child.
  - g. Violates a county or municipal ordinance restricting loitering by a child; or
  - h. Commits an offense related to tobacco.
2. A child who is subject to the jurisdiction of the juvenile court pursuant to this section must not be considered a delinquent child.
  3. The provisions of subsection 1 do not prohibit the imposition of administrative sanctions pursuant to [NRS 392.148](#) against a child who is subject to compulsory school attendance and is a habitual truant from school.
  4. As used in this section:
    - a. “Bullying” means a willful act which is written, verbal or physical, or a course of conduct on the part of one or more persons which is not otherwise authorized by law and which exposes a person one time or repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and:
      - b. Is intended to cause or actually causes the person to suffer harm or serious emotional distress.
      - c. Poses a threat of immediate harm or actually inflicts harm to another person or to the property of another person.
      - d. Places the person in reasonable fear of harm or serious emotional distress; or
      - e. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.
    - f. “Electronic communication device” has the meaning ascribed to it in [NRS 200.737](#).
    - g. “Sexual image” has the meaning ascribed to it in [NRS 200.737](#).

**Commitment:**

Per [NAC 62H.320](#), commitment means placement of each child committed to or otherwise placed in the custody of the Division, and per [NRS 62E.520](#), commitment means:

1. The juvenile court may commit a delinquent child to the custody of the Division of Child and Family Services for placement in a correctional or institutional facility if:
  - a. The child is at least 8 years of age but less than twelve (12) years of age, and the juvenile court finds that the child is in need of placement in a correctional or institutional facility; or
  - b. The child is at least twelve (12) years of age but less than eighteen (18) years of age, and the juvenile court finds that the child:
    - Is in need of placement in a correctional or institutional facility; or
    - Is in need of residential psychiatric services or other residential services for the mental health of the child.
2. Before the juvenile court commits a delinquent child to the custody of the Division of Child and Family Services, the juvenile court shall:
  - a. Notify the Division at least 3 working days before the juvenile court holds a hearing to consider such a commitment; and

- b. At the request of the Division, provide the Division with not more than 10 working days within which to:
  - Investigate the child and the circumstances of the child; and
  - Recommend a suitable placement to the juvenile court.

**Contempt of Court:**

Per [NRS 22.100](#), the following acts or omissions shall be deemed contempt:

1. Disorderly, contemptuous or insolent behavior toward the judge while the judge is holding court, or engaged in judicial duties at chambers, or toward masters or arbitrators while sitting on a reference or arbitration, or other judicial proceeding.
2. A breach of the peace, boisterous conduct or violent disturbance in the presence of the court, or in its immediate vicinity, tending to interrupt the due course of the trial or other judicial proceeding.
3. Disobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers.
4. Disobedience of a subpoena duly served or refusing to be sworn or answer as a witness.
5. Rescuing any person or property in the custody of an officer by virtue of an order or process of such court or judge at chambers.
6. Disobedience of the order or direction of the court made pending the trial of an action, in speaking to or in the presence of a juror concerning an action in which the juror has been impaneled to determine, or in any manner approaching or interfering with such juror with the intent to influence the verdict.
7. Abusing the process or proceedings of the court or falsely pretending to act under the authority of an order or process of the court.

**Crime:**

Per [NRS 217.035](#),

A crime is an act or omission committed within this state which, if committed by an adult, is forbidden by law and punishable upon conviction by death, imprisonment, fine or other penal discipline; or an act of international terrorism as defined in 18 U.S.C. 2331 (1) against a resident.

**Delinquent Act:**

Per [NAC 62H.030](#),

A delinquent act is any act designated a crime under Nevada Revised Statutes, other than a traffic offense, with which a child or an adult may be charged

**Dependent/Neglected:** *(Non-Offender)*

[NRS 432B.020](#) defines dependent/neglected as:

1. Abuse or neglect of a child means, except as otherwise provided in subsection 2:
  - a. Physical or mental injury of a non-accidental nature.
  - b. Sexual abuse or sexual exploitation; or
  - c. Negligent treatment or maltreatment as set forth in [NRS 432B.140](#), of a child caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

2. A child is not abused or neglected, nor is the health or welfare of the child harmed or threatened for the sole reason that:
  - a. The parent of the child delivers the child to a provider of emergency services pursuant to [NRS 432B.630](#), if the parent complies with the requirements of paragraph (a) of subsection 3 of that section; or
  - b. The parent or guardian of the child, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this State in lieu of medical treatment. This paragraph does not limit the court in ensuring that a child receive a medical examination and treatment pursuant to [NRS 62E.280](#). As used in this section, allow means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected

**Detention:** “Local facility for the detention of children” means a local facility for the detention or commitment of children which is administered by a county as ascribed in [NRS 62A.190](#).

**Detention Hearing:**

[NRS 62C.040](#), a detention hearing means:

1. If a child who is alleged to be delinquent is taken into custody and detained, the child must be given a detention hearing before the juvenile court:
  - a. Not later than twenty-four (24) hours after the child submits a written application.
  - b. In a county whose population is less than 100,000, not later than twenty-four (24) hours after the commencement of detention at a police station, lockup, jail, prison or other facility in which adults are detained or confined;
  - c. In a county whose population is 100,000 or more, not later than six (6) hours after the commencement of detention at a police station, lockup, jail, prison or other facility in which adults are detained or confined; or
  - d. Not later than seventy-two (72) hours after the commencement of detention at a facility in which adults are not detained or confined, whichever occurs first, excluding Saturdays, Sundays and holidays.
2. A child must not be released after a detention hearing without the written consent of the juvenile court.

**Detention Facility:**

As used in [NRS 62B.500](#) to [62B.530](#), inclusive, “detention facility” includes a:

1. Local facility for the detention of children; and
2. State facility for the detention of children.

**Division of Child and Family Services:** State agency responsible for compliance and Formula funding. This is the Designated State Agency (DSA).

**Facility:** Facility means a community correctional center, conservation camp, facility of minimum security or other place of confinement, other than an institution, operated by the Department for the custody, care or training of offenders.



**Juvenile Court:**

[NRS 62A.180](#)

1. “Juvenile court” means each district judge who is assigned to serve as a judge of the juvenile court pursuant to [NRS 62B.010](#) or court rule.
2. The term includes a master who is performing an act on behalf of the juvenile court if:
  - a. The juvenile court delegates authority to the master to perform the act in accordance with the Constitution of the State of Nevada; and
  - b. The master performs the act within the limits of the authority delegated to the master

**Juvenile Justice Program Office:** The office appointed by the Division of Child and Family Services to oversee compliance monitoring and grant allocations.

**Juvenile Justice Oversight Commission (JJOC):** Advisory board that oversees the Title II Formula Grant.

**Minor in Consumption:** Any person under twenty-one (21) years of age, who for any reason, possesses any alcoholic beverage in public. This is a delinquent offense in Nevada.

**Offender:** Offender means any person convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison.

**Placement Status:**

[NRS 62E.110](#)

1. Except as otherwise provided in this chapter, the juvenile court may:
  - a. Place a child in the custody of a suitable person for supervision in the child’s own home or in another home; or
  - b. Commit the child to the custody of a public or private institution or agency authorized to care for children; or
  - c. Commit the child to the custody of the Division of Child and Family Services pursuant to [NRS 62E.520](#).
2. If the juvenile court places the child under supervision in a home:
  - a. The juvenile court may impose such conditions as the juvenile court deems proper; and
  - b. The program of supervision in the home may include electronic surveillance of the child.
3. If the juvenile court commits the child to the custody of a public or private institution or agency other than the Division of Child and Family Services, the juvenile court shall select one that is required to be licensed by:
  - a. The Department of Health and Human Services to care for such children; or
  - b. If the institution or agency is in another state, the analogous department of that state.
4. Before committing a child to a public or private institution or agency in another state, the juvenile court must find that:
  - a. No public or private institution or agency in this State met the needs of the child or that such an institution or agency had previously attempted to meet such needs and proved unsuccessful; and
  - b. Reasonable efforts had been made to consult with public or private institutions and agencies in this State to place or commit the child in this State, and that those efforts had failed.

### 3.6 ABBREVIATIONS

**DCFS** – The Division of Child and Family Services (State Agency)

**DSO** – Deinstitutionalization of Status Offenders

**JJDP Act** – Juvenile Justice Delinquency and Prevention Act

**JJRA** – Juvenile Justice Reform Act of 2018

**MIC** - Minor in Consumption (Alcohol) - This is a status offense in many states but a delinquent offense in Nevada

**JustGrants:** Federal Grant Management System

**OJJDP** – Office of Juvenile Justice and Delinquency Prevention (Federal Agency)

**RED** – Racial and Ethnic Disparities

**VCO** – Valid Court Order

### 4.0 THE PURPOSE OF COMPLIANCE MONITORING

The JJDP Act states in section 223(14) that states shall provide for an adequate system of monitoring jails, detention facilities, and correctional facilities to ensure that the core requirements are met and for annual reporting of the results of such monitoring to the Administrator.

Per H.R. 6964, states must now describe an “effective” system of monitoring for compliance with the core requirements but no longer need to include nonsecure facilities in their monitoring universe. (Section 223 (a)(14)).

Specifically, the purpose is:

1. To create and maintain a compliance universe.
2. To certify facilities within the monitoring universe as secure or non-secure. To collect and verify data on 100% of the monitoring universe annually.
3. To inspect approximately one third (1/3) of facilities on an annual basis.
4. To complete an annual compliance report for OJJDP.

#### Monitoring Tasks:

The four (4) major monitoring tasks are as follows; (they are addressed in policies which follow this policy)

1. Identification for Monitoring Universe.
2. Classification of the Monitoring Universe.
3. Inspection of Facilities.
4. Data Collection and Verification.

#### Compliance Universe Master List

The Compliance Monitoring Universe Master List will contain the following information:

1. Contact information for each facility.
2. Facility’s classification as adult/juvenile/collocated, private/public, secure/non-secure;
3. Dates surveys sent, and responses received;
4. Date of the last site visit for each facility; and
5. Date of latest update.

#### **4.1 IDENTIFICATION OF THE MONITORING UNIVERSE**

The compliance monitor will maintain an up to date Compliance Monitoring Universe that will contain listings of all facilities in the state that might hold juveniles pursuant to public authority. The Compliance Monitoring Universe will be in an electronic spreadsheet within the Shared Drive. This spreadsheet includes all correctional facilities, jails, lockups, detention centers, juvenile correctional facilities, and court houses, at a minimum.

An expanded compliance universe may include residential treatment centers, halfway houses, group homes, foster homes, schools, and any other secure or non-secure public and private facilities in which juveniles might be detained or placed, but only if those facilities are not licensed through the Bureau of Health Care Quality and Compliance, or a similar state licensing entity in another state.

The identification of the monitoring universe is an on-going and continuous process. The compliance monitor assesses for new facilities or structures during on-site visits, when out in the community and through an annual internet search.

#### **4.2 CLASSIFICATION OF THE MONITORING UNIVERSE**

The state shall establish and maintain an adequate monitoring universe that identifies and classifies facilities inspections, and data collection/data verification. At a minimum, this shall be completed annually but the maintenance of the compliance universe is ongoing.

The classification of all facilities to determine which should be considered secure detention, correctional facilities, adult correctional institutions, jails, lockups, or other types of secure facilities and thus should be monitored, requires an assessment of each facility based on the OJJDP regulations. Generally, all jails, lockups, juvenile detention centers, training schools and other public and private facilities should be subject to classification.

Facilities will be classified and certified in each of the four (4) areas below: (refer to definition section):

1. Public or Private
2. Juvenile facility, adult facility, or collocated
3. Secure or non-secure
4. Residential or non-residential

For certification and classification, the only definitions to be used are those listed in this policy.

#### **Initial Certification for Newly Added Facilities:**

All newly added facilities shall be classified as secure, and treated as secure, until such time as the compliance monitor can visually inspect and verify the classification. This shall happen during the next round of on-site visits.

### Change in Classification:

Changes in classification shall be done in the following manner. 1) A compliance monitor completes an on-site visit and verifies a change in classification, and 2) the Compliance Universe is updated to reflect the change in classification. At no time shall a compliance monitor change a classification based on the results of an annual survey from a facility; only when it is verified through an on-site inspection. Note: During onsite visits to facilities, the compliance monitor should ask questions regarding new construction, remodeling of current facilities, and proposed construction.

### **4.3 INSPECTION OF FACILITIES**

Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. All facilities classified as secure detention or correctional facilities, jails, lockups, and other facilities shall have periodic, onsite inspections to determine compliance with the core requirements. The inspection shall include:

1. A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequate sight and sound separation between juvenile and adult offenders exists and
2. A review of the record keeping system to determine whether sufficient data is maintained to determine compliance with DSO and jail removal/Sight and Sound separation.

Throughout the review cycle, the Compliance Monitor shall inspect facilities to ensure an accurate assessment of each facility's classification and record keeping. The inspection will include a review of the physical accommodations to determine:

1. Secure versus non-secure classification.
2. Juvenile, adult, or collocated classification.
3. Private or public classification; and
4. Sight and sound separated compliance.

The main contact from each facility will be contacted through e-mail or a formal letter if necessary, to schedule a date and time for an on-site inspection.

An on-site inspection consists of the following.

1. A guided tour through the facility.
2. Layout of the facility (if available).
3. Obtain facility's policies and procedures (if available).
4. Obtain and/or review any documentation regarding room confinement, status offenders or admissions, and
5. Provide training and technical assistance if needed.

Collected documentation/information will be compared with submitted monthly documents for accuracy.

### **Virtual Inspection of Facilities:**

As stated in the previous section, inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping.

If an on-site facility inspection is not feasible, due to facility lockdowns or closures, or unsafe facility conditions, DCFS staff shall conduct a virtual inspection.

A virtual inspection does not remove the requirement of the facility to provide an annual survey, or monthly logs as required.

#### **Requirement:**

The Compliance Monitor shall:

- schedule a virtual inspection via any platform supported by the facility
- document the reason for the virtual inspection on the *Facility Review Form ONSITE*
- discuss and guide the virtual inspection as they would an onsite inspection
- complete the *Facility Review Form ONSITE*

#### **Procedures:**

Compliance monitoring staff conducts on site monitoring visits of secure adult jails, adult lockups, adult correctional facilities, juvenile detention facilities, juvenile secure youth camps, and juvenile correctional facilities. However, on site monitoring visits may be modified based on the health and safety of compliance monitoring staff, and that of facility residents and staff.

In the event that health and safety are a factor, the Governor issues Executive Orders listed here; [https://gov.nv.gov/News/Emergency\\_Orders/Emergency\\_Orders/](https://gov.nv.gov/News/Emergency_Orders/Emergency_Orders/)

In the event a virtual visit is needed, compliance monitoring staff shall notify secure facilities selected for on-site visits and they shall have the option of virtual (Zoom, Microsoft Teams, Go To), video conferencing, or phone visits. Compliance monitoring staff shall document the platform used for those on-site visits.

## **4.4 DATA COLLECTION**

Data collection and reporting are required to determine whether facilities in the state follow the applicable requirements of DSO and jail removal/sight and sound separation. The length of the reporting period should be a twelve (12) month period.

The Compliance Monitor will be responsible for collecting data on every youth held in those facilities subject to inspections following OJJDP rules and regulations on data collection. Data on all juveniles held securely will be obtained within three (3) months of the close of the monitoring fiscal year. The federal fiscal year, October 1st through September 30th, will be used for each annual monitoring cycle. The forms used to gather this data include:

During the 1<sup>st</sup> quarter of the Federal Fiscal Year, October – December, the Compliance Monitor will send out the following surveys.

The information collected, via the surveys, will be recorded on the Compliance Monitoring Universe spreadsheet or database.

The Compliance Monitor may perform an on-site visit to any facility that is required to return the survey but has failed to do so. This includes secure juvenile facilities and adult secure jails and lockups.

The Compliance Monitor shall gather data from either.

1. 100% of secure facilities (juvenile and adult) are required to report data

*Any secure facility that does not return the survey will receive an onsite review for the next compliance year whether the facility is due for a visit or not. This visit will include a request and receipt of the annual survey and data regarding any youth that may have been securely held since their last report, and an explanation that the facility will be visited more often than every three (3) years if they do not provide an annual survey and/or report on whether juvenile delinquents or status offenders were securely held in the compliance year.*

The compliance monitor shall keep an accurate and up to date list of the compliance universe as well as the following:

- A list of facilities who were sent an annual survey.
- A list of facilities reporting data (using the survey).
- A list of facilities that did not submit a completed survey.
- A list of facilities that received an inspection (at least 10% annually). However, federal requirements require all secure facilities be reviewed once every 3 years.
- A list of facilities in which core requirement violations occurred, with the number and type of violation identified; and
- An explanation of how the state verifies the survey data.

The Compliance Monitor shall present an annual inspection plan which lists the facilities that will be visited within the review year. The monitor may add to the list those facilities that did not submit an annual survey.

#### **4.5 DATA VERIFICATION**

If the data is self-reported by the facility or is collected and reported by an agency other than the state agency receiving federal grant funds, the plan shall describe a statistically valid procedure used to verify the reported data.

The state shall have a system in if a court determines a juvenile charged with a status offense should be placed in a secure detention facility or correctional facility for violating a valid court order. The court must issue a written order setting out the specific factual circumstances surrounding the violation of the VCO. Such placement may not exceed seven (7) days and the court's order may not be renewed or extended.

1. For each facility submitting data (either electronically or hard copy entered into database by the Compliance Monitor), a Violation Report of potential JJDP Act violations will be generated. The Violation Report will be reviewed on-site or through a desk audit and compared to the original data source maintained by the facility.
2. The Compliance Monitor will verify a random sample of at least 10% of all adjudicated status offenders held securely because of violating a valid court order.

3. The Compliance Monitor will review the data on-site to verify for accuracy against the information in the facilities' files.
4. This review, whether onsite or through a desk audit, may be conducted separately from a scheduled compliance review as the state visits a maximum of 30% of all secure facilities annually.

#### **4.6 ANNUAL COMPLIANCE MONITORING REPORT PERIOD**

A designated monitoring report period is essential in providing accurate year to year monitoring reports. A twelve (12) month report period is the best sound method and leaves no room for statistical errors. In the event a facility does not provide data, a statistically sound method of projecting the data shall be used.

The report period is federal fiscal year which is from October 1st through September 30th of each year.

1. All data collected from the OJJDP Annual Compliance Monitoring report will reflect that it has been collected from October 1st through September 30th of the respective year of the report.
2. In the event a facility does not report data the facility will be reported on the OJJDP Compliance Monitoring report which will project the violations from that facility. Per state statute all facilities are required to report data. Notification will be made immediately in writing by the Juvenile Justice Specialist. In addition, federal funds can be withheld if a facility does not report data.
3. The OJJDP Compliance Monitoring Report is located on their web site and should be completed electronically.

#### **4.7 ANNUAL METHOD OF REPORTING TO OJJDP**

The data and information collected throughout the year shall be analyzed, reviewed, and written up in the form of the annual Monitoring Report, which shall be received by OJJDP no later than February 28th of each year.

It is the Compliance Monitor's responsibility to collect, verify, and compile the data each year.

1. On or before December 31st of each year the Compliance Monitor will have collected and verified the data as listed under data sets.
2. After all data has been collected and verified the Compliance Monitor will extract the data that relates to the annual Monitoring Report and will complete the report. The report is in located within the Office of Justice Programs Performance Management System.
3. The Compliance Monitor will provide the statistical tables and/or charts needed for the report.
4. The JJOC will review a sample of the report prior to submission through the Performance Management System.

#### **5.0 CORE REQUIREMENTS BY FACILITY TYPE**

States shall use only the federal definitions when monitoring for compliance with the JJDP Act and related regulations. Each facility shall meet certain criteria in order to be classified as such. Each facility complies with the regulations in different ways. This policy is intended to provide the compliance monitor with compliance as it relates to each type of facility recognized by OJJDP. All facilities shall fit into one of these categories.

The compliance monitor will refer to this manual as a guide to compliance monitoring duties.

## 5.1 SECURE AND NON-SECURE CUSTODY

States must now describe an “effective” system of monitoring for compliance with the core requirements but no longer need to include “nonsecure” facilities in their monitoring universe (Section 223 (a)(14)). As used to define a detention or correctional facility, the term “secure” also includes residential facilities which include construction features designed to physically restrict the movements and activities of persons in custody such as locked rooms, buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff. The JJDP Act’s definition of “secure” is independent of the definition’s states use in licensing facilities. Therefore, it is possible to have a juvenile in a residential treatment facility that is considered “secure” under the JJDP Act but is licensed as “non-secure” under state licensing provisions.

Likewise, it is possible for a juvenile to 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 according to the JJDP Act. OJJDP’s *Policy Guidance for Non-Secure Custody of Juveniles in Adult Jails and Lockups* states that all the following policy criteria, if satisfied, will constitute non-secure custody of a juvenile in an adult jail or lockup facility:

The Compliance Monitor will verify all facilities’ self - reported classification of secure or non-secure, via inspection. Until an inspection is completed, the facilities’ self-reported classification will be how they are classified in the meantime.

## 5.2 DIRECT FILED OR CERTIFIED JUVENILES

In the state of Nevada juveniles may enter the adult system in one of two (2) ways:

- Direct File; or
- Certification

The following acts under NRS 62B.330 are deemed not to be delinquent acts, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act (*a direct file*):

1. Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense, if the person was 16 years of age or older when the murder or attempted murder was committed.
2. Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:
  - a. The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and
  - b. Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.
3. An offense or attempted offense involving the use or threatened use of a firearm and any other



- related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:
- a. The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and
  - b. Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.
4. A felony resulting in death or substantial harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:
- a. The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and
  - b. The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.
5. A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:
- a. The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or
  - b. The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.
6. Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

The following acts under NRS 62B.390 are deemed *certifiable*.

1. Except as otherwise provided in subsection 2 and [NRS 62B.400](#), upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:
  - a. Except as otherwise provided in paragraph (b), is charged with an offense that would have been a felony if committed by an adult and was fourteen (14) years of age or older at the time the child allegedly committed the offense; or
  - b. Is charged with murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed.
2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:
  - a. Is charged with:
    - A sexual assault involving the use or threatened use of force or violence against the victim; or
    - An offense or attempted offense involving the use or threatened use of a firearm; and
  - b. Was sixteen (16) years of age or older at the time the child allegedly committed the offense.
3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to

subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

- a. The child is developmentally or mentally incompetent to understand the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or
  - b. The child has substance abuse or emotional or behavioral problems and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.
4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.
  5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:
    - a. The court to which the case has been transferred has original jurisdiction over the child.
    - b. The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and
    - c. If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

The difference between a "direct file" and a "certification" has a direct effect on where the juvenile will be placed pending trial. Youth that are "direct files" are placed in an adult jail or lock up. Youth that are "certified" are placed in a juvenile detention facility and may be sent to an adult jail or lock up once a juvenile court judge "certifies" them. Juveniles that are "direct filed" may never have contact with the juvenile system through juvenile detention or juvenile court.

A juvenile who has been direct filed or certified is otherwise under the jurisdiction of a criminal court does not have to be separated from adult criminal offenders. This is because a juvenile is not alleged to be or found to be delinquent (i.e., the juvenile is under a criminal proceeding, not a delinquency proceeding). Likewise, an adult held in an adult jail or lockup for delinquency proceeding (generally related to a crime committed before reaching the age of full criminal responsibility) can be held securely in an adult jail or lockup because the adult is not juvenile alleged to be or found to be delinquent. Both types of individuals can be placed wherever the legislature or courts, where authorized, deem appropriate.

### State Process of Monitoring

The Compliance Monitor will attempt to visit any juvenile, under adult criminal court, who is in adult jail or lockup, to ensure that the youth is safe in their environment. These visits are on a case by case basis and depend on available resources.

Any issues noted during a visit of this nature will be directly reported to the local sheriff or a DCFS supervisor.

H.R. 6964, JJDP A is calling on states and localities to remove youth who are charged as adults from adult jails pretrial. Previous iterations of the JJDP A only prevented minors facing delinquency charges from being held in adult jails, leaving youth charged as adults vulnerable to the dangers and shortcomings of adult jails, a system not designed for youth, nor their safety. Under the reauthorized statute, youth held in adult jails—including those charged as adults must be removed to a juvenile detention centers by December 21, 2021. The definition of "adult" in the new statute is tied to each states age of criminal responsibility and extended age of jurisdiction.

Not later than three (3) years after the date of enactment of the Juvenile Justice Reform Act of 2018, unless a court finds, after a hearing and in writing, that it is in the interest of justice, juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility –

1. Shall have sight or sound separation with adult inmates; and
2. May not be held in any jail or lockup for adults.
3. Determine whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have sight or sound contact with adult inmates, a court shall consider –
  - a. The age of the juvenile.
  - b. The physical and mental maturity of the juvenile.
  - c. The present mental state of the juvenile, including whether the juvenile presents an imminent risk of self-harm.
  - d. The nature and circumstances of the alleged offense.
  - e. The juvenile’s history of prior delinquent acts.
  - f. The relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth.
4. Any other relevant factor; and
5. If the court determines under clause that it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults –
  - a. The court shall hold a hearing not less frequently than once every thirty (30) days, or in the case of a rural jurisdiction, not less frequently than once every forty-five (45) days, to review whether it is still in the interest of justice to permit the juvenile to be so held or have such sight or sound contact; and
  - b. The juvenile shall not be held in any jail or lockup for adults or permitted to have sight or sound contact with adult inmates, for more than one hundred and eighty (180) days, unless the court, in writing, determines there is good cause for an extension, or the juvenile expressly waives this limitation.
  - c. Youth who are held in adult facilities under the interest of justice exception will still be protected by the Prison Rape Elimination Act’s (PREA) Youthful Inmate provision, which guarantees sight and sound separation between adult inmates and inmates under eighteen (18) years of age.

### **5.3 COLLOCATED FACILITIES**

A collocated facility is a juvenile facility 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).

Juvenile facilities collocated with adult facilities are considered adult jails or lockups unless all four of the following criteria are met:

1. The facility shall ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and adult inmates of the facility. Separation can be achieved architecturally or through time phasing of common use nonresidential areas;

2. The facility shall have separate juveniles and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There shall 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 adult inmates. Time phasing of common use nonresidential areas permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns;
3. If the state will use the same staff to serve both the adult and juvenile populations, there is in effect in the state a policy that requires individuals who work with both juveniles and adult inmates be training and certified to work with juveniles; and
4. In states that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility shall meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate.

A facility adhering to the four criteria would qualify as a separate secure juvenile detention center or correctional facility for monitoring for compliance with DSO, jail removal/sight and sound separation. The compliance monitor shall make the determination of collocated status via an onsite facility inspection and perform an annual review to determine if compliance with the criteria listed above is being maintained.

Facility Name	Specifications	If not followed, these Core Requirements are violated
Douglas County Juvenile Detention/ Douglas County NV. Jail (Lake Tahoe)	Two sides of the same building: shall keep youth separated from adult offenders	Sight and Sound
Juvenile Cell located in Nye County Jail in Tonopah	Juvenile cell located in administrative area of jail  Jail located in rural Nevada  Should not be used for status offenders/non-offenders	Sight and Sound Jail Removal DSO

State Process of Monitoring

These are classified as adult and juvenile secure facilities. These facilities are on an annual on-site visit schedule and are required to provide an annual self-report survey.

**5.4 COURT HOLDING FACILITIES**

A secure court holding facility is a room located next to or near the court room. Detained persons are held in this secure room before and/or after court proceedings.

1. Must only be used for detained individuals appearing in court.
2. Cannot be used as an overflow or as a secure juvenile holding area for the jail or police lockup.
3. May not be used for punishment.
4. Is only operational during court hours, and;
5. Are strictly sight and sound separated for incarcerated adults or adult inmates.

## Court Holding Facilities Regulations by Core Protections

Type of Juvenile	Rules	If not followed, these Core Requirements are violated
Alleged juvenile status offender, non-offender, or civil-type offender	No restrictions if separated from adults.	Sight and Sound
Alleged juvenile status offender accused of violating a VCO	No restrictions if separated from adults.	Sight and Sound
Adjudicated juvenile status offender or non-offender	No restrictions if separated from adults.	Sight and Sound
Juvenile status offender adjudicated for violating a VCO	No restrictions if separated from adults.	Sight and Sound
Alleged juvenile delinquent	No restrictions if separated from adults.	Sight and Sound
Adjudicated juvenile delinquent	No restrictions if separated from adults.	Sight and Sound
Juvenile transferred or certified to adult court on felony charges	JJDP Act does not apply	NA

Court holding facilities impose an inherent or practical time limitation in that juveniles must be brought to and removed from the facility during the same judicial day.

### State Process of Monitoring

These facilities are classified as secure adult facilities. These facilities are on a three (3) year on-site visit schedule and are required to provide an annual compliance survey.

## 5.5 ADULT PRISONS, ADULT JAILS, AND SECURE ADULT LOCK UPS

1. An adult prison includes any institution used for the post-conviction confinement of adult criminal offenders, including work camps and secure facilities located in the community. The JJDP Act prohibits the placement of status offenders and non-offenders in secure correctional facilities. Holding status offenders or non-offenders in an adult prison would be an immediate violation of the JJDP Act. In Nevada, youth found guilty in adult court are sent to adult prisons or boot camps but are monitored for sight and sound separation and separation from adult trustees. (Spot Check)
2. Jail removal is a core JJDP requirement, which is addressed within this policy. Juveniles may be held securely for up to (six) 6 hours and then shall be removed. Any instance greater than (six) 6 hours, that is not related to safety (weather and road conditions), will be considered a violation. Complete separation shall be provided between juvenile delinquent offenders and adult inmates and trustees.
3. Scared Straight programs, where juveniles are brought inside adult prisons or jails to discuss a life of crime with adult inmates as an intervention program, are violations of the separation core protection when the juvenile is required to participate in this program as part of a court order, including probation or diversion requirements. The Compliance Monitor will annually check with adult prisons to determine if they are participating in this type of program.
4. Adult lock ups are secure police stations or sheriff's offices where there are cells, locked interview rooms, or mechanical devices such as cuffing benches. Also includes secure court holding facilities. (Three (3) year on-site schedule)

Type of Juvenile	Rules	If not followed, these Core Requirements are violated
Alleged juvenile status offender, non-offender, or civil-type offender	Cannot be held securely.	Jail Removal DSO Sight and Sound
Alleged juvenile delinquent	Maybe be securely held up to six hours, if no exceptions are present  No restrictions if separated from adults.	Jail Removal Sight and Sound
Juvenile transferred or certified to adult court on felony charges	JJDP Act does not apply	NA

### State Process of Monitoring

Adult jails and secure adult lockups are classified as secure facilities. These facilities are on a three (3) year on-site visit schedule and are required to provide an annual compliance survey.

Adult correctional facilities are classified as secure facilities. These facilities are spot check and are required to provide an annual compliance survey.

## **5.6 NON-SECURE FACILITIES**

1. Non-secure facilities are court houses, court rooms, police or highway patrol sub-stations, or any facility with state or local police, probation, or parole officers that do not have cells, locked interview rooms, or mechanical devices such as cuffing benches.
2. Juveniles are typically not brought to non-secure police or highway patrol sub stations.
3. Juveniles regularly visit juvenile probation and parole offices.
4. Many of the court rooms and court houses in Nevada are not used for juvenile offenders, unless they are certified as an adult. There are local juvenile courts and seven (7) counties that have detention facilities. Rural counties may have teleconference with juvenile judges from detention or their local probation office.
5. Court rooms and court houses that serve both juvenile and adult offenders are encouraged to have separate days or times of the day for juvenile proceedings to maintain sight and sound separation.
6. The state shall ensure that juvenile offenders, to include status offenders, are not subject to contact with adult offenders within a non-secure facility. However, intermittent contact may occur in hallways or other common areas while juveniles are under constant supervision.

Type of Juvenile	Rules	If not followed, these Core Requirements are violated
Juveniles as witnesses	Present with parent/guardian	NA
Alleged juvenile delinquent	Keep separated from adult offenders	Sight and Sound
Alleged status offender	Keep separated from adult offenders	Sight and Sound

### State Process of Monitoring

Some non secure facility types shall spot checked only, no annual survey is required effective the 2020 compliance year. Highway patrol sub stations, juvenile probation offices, and juvenile paroles offices will no longer be spot checked effective the 2020 compliance year.

## 5.7 JUVENILE CORRECTIONS, DETENTION, AND COUNTY CAMPS

1. Juvenile corrections and detention are secure facilities, either through an established perimeter, locked doors, locked cells, or staff secure.
2. County camps are non-secure facilities. Juveniles are placed in a county camp by court order to provide treatment early in the juvenile justice system.

Type of Juvenile	Rules	If not followed, these Core Requirements are violated
Adjudicated delinquent 12 - 17	Gender separation	None
Adjudicated delinquent 18 – 21 still under juvenile court jurisdiction	Gender separation	None

### State Process of Monitoring

One (1) facility is non-secure, and one (1) is staff secure. These facilities are on a three (3) year on-site visit schedule and are required to provide an annual compliance survey.

## 5.8 OTHER TYPES OF FACILITIES

### 1. Secure Mental Health or Residential Treatment Facilities

1. A Juvenile committed to a mental health or residential treatment facility under a separate state law governing diverted commitments of individuals for mental health treatment or evaluation would be considered outside the class of juvenile status offenders and non-offenders. For monitoring purposes, this distinction does not permit placement of status offenders or non-offenders in a secure mental health facility where the court is exercising its juvenile status offender or non-offender jurisdiction. The state shall ensure that juveniles alleged to be or found to be juvenile status offenders or non-offenders are not committed under state mental health laws to circumvent the intent of DSO.
2. There are no restrictions to placing delinquent offenders in a treatment unit. The separation requirement does not apply if juveniles and adults are held in a mental health facility solely because of a mental health diverted commitment.
3. The separation requirement does not apply if the juvenile and adults are held in the same facility.

Type of Juvenile	Rules	If not followed, these Core Requirements are violated
Adjudicated delinquent 12 - 17	Licensed by Health Care Quality and Compliance – State licensing rules	None
Alleged delinquent 12 - 17	Licensed by Health Care Quality and Compliance – State licensing rules	None

### State Process of Monitoring

These facilities are not under the purview of the Programs Office as they are licensed by Health Care Quality and Compliance and are monitored by them.

## **2. Adult Conservation Camps**

1. These are step downs from adult prisons and are used for adult offenders who have been paroled from corrections. Only certified youth may attend one of these camps.

### State Process of Monitoring

These facilities are classified as secure but are not used for juveniles. These facilities are not under on-site visit schedules. An annual compliance survey will no longer be required beginning January 2020.

## **3. Providers & Youth Shelters**

1. The State of Nevada contracts with Residential Treatment Facilities, both in and out of state, and specialized foster care providers for independent living services. Lastly, the state has roughly four (4) shelters primarily for the child welfare system, that may occasionally be used as a temporary placement for a status offender.
  - a. Residential Treatment Providers are licensed through the licensing board and are not included in the monitoring universe.
  - b. Specialized Foster Care Providers have been identified as part of the monitoring universe. State providers are generally not licensed by the licensing board. However, they are reviewed and licensed by child welfare practitioners.
  - c. Youth Shelters are licensed through the licensing board and are not included in the monitoring universe.

### State Process of Monitoring

These facilities are not under the purview of the Programs Office as they are either licensed by Health Care Quality and Compliance and are monitored by them, or by child welfare practitioners and monitored by them.

## **4. Constables**

Constables are officers of the court and have varying functions across the state. Some act as bailiffs for district or justice courts while some only serve subpoenas. All courts are monitored based on their security level.

### State Process of Monitoring

These facilities may be secure or non-secure. Constables themselves will not be reviewed beginning with the 2020 compliance year. Any secure facility they represent will continue to be monitored as required.

## **6.0 OJJDP COMPLIANCE DETERMINATION PROCESS**

Based on a review of the state's compliance data with supporting materials and the compliance monitoring information the OJJDP Administrator will issue correspondence no later than April 30th regarding final compliance determinations, including, as necessary, specific details regarding why a state was determined to be out of compliance with any of the core requirements or the required compliance monitoring system. The final compliance determinations made by April 30th will affect the state's Charles Grassley Juvenile Justice



and Delinquency Prevention Program (Title II B Formula Grant) award that will be awarded by September 30th of that fiscal year.

A state's formula grant funding will be reduced not less than twenty percent 20% for each core requirement with which OJJDP has determined the state to be out of compliance. In addition, a state subject to any such reduction is ineligible to receive *any* of its remaining formula grant award unless one (1) of two (2) conditions are met:

1. The state agrees in writing, to submit a separate plan and budget as a condition of its award and to expend fifty percent 50% of its remaining formula award for that fiscal year to achieve compliance with any core requirement with which it was found to be noncompliant, or;
2. By the time of its grant award, the Administrator determines that the state has achieved substantial compliance with all core requirements with which it was found to be noncompliant and made through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.

For states to utilize option (2) the state shall request and be granted a waiver of option (1) by the OJJDP Administrator. The request shall be in writing and shall be supported by documentation that addresses the elements noted above.

### Appeal

Pursuant to 28 C.F.R. Part 18<sup>1</sup>, a state that has been notified by OJJDP that it is out of compliance with one (1) or more of the core requirements with an attendant reduction in funding, or a state that has been notified of a denial or suspension of formula grant funding for failure to provide for an adequate system of monitoring may appeal such suspension or denial of, funding to the Office of the General Counsel for the Office of Justice Programs. The appeal request shall be filed consistent with 28 C.F.R. § 18.5(c) which, as of the date of the implementation of this policy, requires that it be submitted in writing, within thirty (30) calendar days of receipt of notification of the noncompliance determination or denial of funding.

OJJDP Decision	Appealable
Denial of formula grant funding for failure to provide for an adequate system of monitoring	Yes
Suspension of funds for failure to provide for an adequate system of monitoring	Yes
Reduction of funds for being out compliance with one or more of the core requirements	Yes

## **7.0 PROCESS TO REQUEST AN OJJDP OPINION**

On those occasions when an opinion from OJJDP is required, the following shall occur.

A request for an OJJDP opinion should be directed in writing to the OJJDP State Representative directly from the JJ Specialist.

### Procedures:

1. Indicate what is being requested: a ruling on a violation or assistance with the interpretation of regulations.
2. Indicate where the request is coming from: the JJ Programs Office or a specific facility.

3. Notify the JJOC of the request and provide a copy if required.
4. A copy of the letter will be included in the Facility File.
5. All responses will be shared, as appropriate, with the JJOC, and the requesting facility.
6. If the response requires a change to the compliance Monitoring Policy and Procedure Manual, it will be made at the next revision.

**APPENDIX A**  
**VALID COURT ORDER GUIDANCE**

Juveniles arrested and placed in juvenile detention for a status offense shall be released within 24 hours, unless the juvenile is found to be in violation of a valid court order.

Youth may not be held in an adult jail or lockup for a status offense or for violating a court order.

The court order shall be for a status offense, and the new arrest shall be for a status offense.

*Delinquent offense court order → new status offense = A new status offense may be counted as a violation of probation or parole (VOP) which means no DSO requirement. If it is not counted as a VOP, then the youth shall be released within 24 hours and it may be a violation of DSO.*

*Status offense court order → new delinquent offense = Not countable under DSO*

*Status offense court order → new status offense = Shall be released within 24 hours or  
A violation of a valid court order may be applied*

Youth who are found in violation of a valid court order may be held in detention, for no longer than seven days, if the court finds that such detention is necessary and enters an order containing the following: 1) identifies the valid court order that has been violated; 2) specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order; 3) includes findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile; 4) specifies the length of time, not to exceed seven days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility. Such an order may not be renewed.

## APPENDIX B:

### GOVERNOR'S EXECUTIVE ORDER

State of Nevada Governors have signed roughly five executive orders since the 1980's. The first executive order addressed the state's participation in the JJDP Act of 1974 and subsequent orders have addresses pieces of the state's compliance.

The Original Order in 1988 stated:

WHEREAS, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, Pub. L. No. 93-415 ("The Act") requires each state to establish a state juvenile justice advisory group if it is to receive funds under The Act; and

WHEREAS, such an advisory group can serve in effectively coordinating Juvenile Justice and Delinquency Prevention and related programs to ensure the efficient delivery of juvenile services in the State; and

WHEREAS, such an advisory group may be given a role in monitoring state compliance with the requirements of The Act; and

WHEREAS, the Department of Justice, Office of Juvenile Justice and Delinquency Prevention has recommended that Nevada's Executive Order be revised to include the authority to monitor Adult Jails and Lockups pursuant to "The Act" in order to ensure compliance and

WHEREAS, such an advisory group can serve to further the purposes and oversee administration of the program of The Act; and

WHEREAS, such an advisory group can play an important and beneficial role in reviewing and commenting on the State's juvenile justice and delinquency prevention needs and programs.

A subsequent order in 2008 stated:

*Monitor state compliance with the requirements of the Act, including the authority to monitor juvenile incarcerated or potentially incarcerated in adult jails and lockups. To the extent permitted by law, the Division of Child and Family Services Juvenile Justice Programs Chief and/or his or her Designee shall have, for inspection purposes, access to any secure on on-secure facility that detains, or potentially detains minors. Inf the facility is required to keep a log, a copy of the log, and any related documentation requested, shall be submitted to the Division of Child and Family Services Juvenile Justice Programs Office Chief and/or his or her Designee monthly.*

A subsequent order in 2017 stated:

**WHEREAS**, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, Pub. L. No. 93-415 ("The Act") requires each state to establish a state juvenile justice advisory group in order to receive funds under the Act.

**WHEREAS**, in compliance with the Act, the JJOC was created by Executive Order dated May 18, 1994.

**WHEREAS**, the Executive Order creating the JJOC was amended by a subsequent Executive Order dated December 11, 2008, to clarify the role of the Division of Child and Family Services in relation to the functions of the JJOC;

**WHEREAS**, on June 16, 2017, Assembly Bill 472 was signed into law, creating the Juvenile Justice Oversight Commission and the Advisory Committee to the Commission, prescribing the powers and duties of the Commission and the Advisory Committee, and providing other matters properly related thereto; and

**WHEREAS**, the Juvenile Justice Oversight Commission will play a critical role in advancing the improvement of juvenile justice systems across the state, including objectives related to reducing recidivism, enhancing programs and resources for justice-involved youth, and ensuring ongoing compliance with the Juvenile Justice Delinquency Prevention Act of 1974;

***NOW, THEREFORE***, by the authority vested in me as Governor by the Constitution and laws of the State of Nevada and the United States, I do hereby order the Juvenile Justice Oversight Commission created by Assembly Bill 472 to replace in name and function the JJOC created by previous Executive Order dated May 18, 1994, and do hereby designate the Juvenile Justice Oversight Commission as the state juvenile justice advisory group required by the Juvenile Justice and Delinquency Prevention Act of 1974 and grant it the power and authority necessary to carry out the Act;

## APPENDIX C:

### SUMMARY OF FACILITY TYPE – INSPECTION CRITERIA

<b>Adult Correctional Facilities</b>	<p>They are classified as secure. Only youth certified as adults will be housed in one of these facilities. Annual surveys are sent to adult correctional facilities.</p> <p>These facilities are on a spot check.</p>
<b>Juvenile Correctional Facilities</b>	They are classified as secure. Juvenile only. They provide an annual survey and are inspected at least 10% annually, but 100% within three years.
<b>Juvenile Detention Centers</b>	They are classified as secure. They provide an annual survey and monthly status offender reports. They are inspected at least 10% annually, but 100% within three years.
<b>Adult Jails and Lockups Temporary Holding Facilities, Nevada Highway Patrol, Local Law Enforcement, Airports, Sporting Complexes, Universities, Community Colleges, Schools, Parks, and Court Houses</b>	<p>They are classified as secure or non-secure. They are sent an annual survey and secure facilities are required to provide the survey while non-secure may or may not provide the survey.</p> <p>Facilities in this area that are classified as secure or partially secure are inspected at least 10% annually, but 100% within three years. These include adult jails, lockups, airports, college sporting complexes, and court houses.</p> <p>The following non-secure facility types will be spot checked: local law enforcement offices and court houses.</p> <p>The following facility types will no longer be spot checked beginning in 2020: Nevada Highway Patrol, Schools, and Parks.</p>
<b>Regional Shopping Malls and Casinos</b>	These are not included in the compliance universe as they employ private security only.
<b>Psychiatric Hospitals With secure units</b>	These are licensed by the state’s regulatory agency. They will not be inspected or included in the compliance universe as the state regulatory is responsible for inspections.
<b>Federal Facilities</b>	Not subject to state inspection for purposes of the Act.
<b>Residential Treatment Centers</b>	These are licensed by the state’s regulatory agency. They will not be inspected or included in the compliance universe as the state regulatory is responsible for inspections.
<b>Detox or other Alcohol facilities</b>	These are licensed by the state’s regulatory agency. They will not be inspected or included in the compliance universe as the state regulatory is responsible for inspections.
<b>Adult Conservation Camp</b>	They are classified as secure and included on the expanded compliance universe. Only youth certified as adults will be housed in one of these facilities after release from an adult correctional facility. They are sent an annual survey and may or may not provide information. These facilities will not be included in on site monitoring.
<b>Juvenile Admin Probation and Parole</b>	They are classified 100% non-secure and will no longer be spot check beginning 2020.
<b>Providers (Specialized Foster Care and Independent Living Providers)</b>	They are non-secure. They will not be spot checked nor not included in the annual survey. Child welfare practitioners license and monitor these facilities.
<b>Constables</b>	These are officers of the court and are included in the expanded universe. Most work out of their homes. They will not be spot checked nor not included in the annual survey. However, any secure facility they are associated with will be reviewed and monitored as required.

## FORMS

FORM NAME	USE OF FORM & FORM STORAGE
<b>Juvenile Summary in Adult Jails</b>	<p>USE: Used for documenting juveniles placed in adult jails or other holding facilities.</p> <p>STORAGE: Completed documents kept in individual facility folders, by compliance year, on the shared drive.</p>
<b>Annual Facility Survey</b>	<p>USE: Used for all facilities that are required to report annually. Survey is mailed or email annually in October.</p> <p>STORAGE: Completed documents kept in individual facility folders, by compliance year, on the shared drive.</p>
<b>Facility Review Form ONSITE</b>	<p>USE: Used by compliance monitors during/after an onsite review to capture information about the facility, classify the facility as secure or non-secure, to document violations, and to provide notes of the review.</p> <p>STORAGE: Completed documents kept in individual facility folders, by compliance year, on the shared drive.</p>
<b>Sight and Sound Inspection Checklist</b>	<p>USE: Used by compliance monitors during/after an onsite review to document if the facility is sight and sound compliance.</p> <p>STORAGE: Completed documents kept in individual facility folders, by compliance year, on the shared drive.</p>
<b>On Site Inspection Results</b>	<p>USE: Used by compliance monitors to summary on onsite facility visit.</p> <p>STORAGE: Completed documents kept in individual facility folders, by compliance year, on the shared drive.</p>
<b>Status Offender Summary</b>	<p>USE: Used by juvenile detention facilities to provide monthly data to DCFS on status offenses, offenders.</p> <p>STORAGE: Data entered in a data base and monthly forms are kept on the shared drive.</p>

In 2019, the *Sight and Sound Inspection Checklist* was not used to minimize the forms required. However, this form is extremely helpful in identifying how sight and sound is obtained, so it was added back in for 2020.

In 2019, the *On-Site Inspection Results* was not used to minimize the forms required. Compliance monitors verbally provide guidance at the end of every inspection. However, this document does summarize the results of the inspection and will be added back in for 2020.

**Retention: All documents are saved for six (6) years and then destroyed.**