



COLORADO
Division of Criminal Justice

Department of Public Safety

Office of Adult and Juvenile Justice Assistance
700 Kipling Street, Suite 1000
Lakewood, CO 80215

303•239•4442

March 30, 2018

Kathy Manning
Office of Juvenile Justice and Delinquency Prevention
810 Seventh Street NW
Washington, DC 20531

RE: Colorado's FY2017 Compliance Monitoring Report

Dear Ms. Manning:

Enclosed please find **Colorado's 2017 Compliance Monitoring Report** which covers the 12 month period from October 1, 2016 – September 30, 2017 and reports Colorado's compliance with the DSO, Separation, and Jail Removal Core Requirements of the JJDP Act. Along with the report, we have attached the required responses and charts listing the violations per facility.

Please call or e-mail me if you need clarification on any item. You may reach me at 303/239-5717 or my e-mail address is meg.williams@state.co.us.

Sincerely,

A handwritten signature in cursive script that reads "Meg Williams".

Meg Williams
Manager,
Office of Adult and Juvenile Justice Assistance
Division of Criminal Justice
Colorado Department of Public Safety

cc: Will Hays, Chair, Juvenile Justice and Delinquency Prevention Council
Joe Thome, Director, Division of Criminal Justice
Didier Moncion, OJJDP Compliance Monitoring Coordinator
Mona Barnes, DCJ Compliance Monitor

COLORADO'S 2017 COMPLIANCE MONITORING REPORT

Compliance Monitoring Checklist

Compliance data and supporting documentation must include:

- A complete list of facilities required to report data:

See Attachment 1: 2017 Colorado's Facility Master List. There is a TAB named "Secure-Required to Report Data".

- A list of all co-located facilities in the state:

Colorado has 1 collocated facility but it did not receive this any Title II Formula Grant funding in 2017.

- A list of all facilities that the state has monitored (in the relevant compliance year):

See Attachment 2: 2017 On-site Compliance Monitoring Visits

- A list of all facilities reporting data:

See Attachment 1: Colorado's Facility Master List is attached and has a TAB named "Secure-Required to Report Data". Colorado had 100% reporting from those facilities required to report.

See Attachment 5: 2017 Colorado Police Department Hold and Violation List

See Attachment 6: 2017 Colorado Sheriff Office Hold and Violation List

- A list of all facilities required to report data that have not actually reported, along with plan for obtaining information from these facilities:

Colorado had 100% reporting from those facilities required to report.

- A list of facilities in which Core Requirement violations occurred, with the number and type of violation identified:

See Attachment 3: 2017 JJDPA Compliance Monitoring Holding Violations

Core Requirements	Facility Type	Number of Violations
Deinstitutionalization of Status Offender (S.O.)		37
S.O. held securely	Adult Jail	6
S.O. held securely	Adult Lockup	22

	Juvenile Correctional Facility	0
Accused S.O. held over 24 hrs	Juvenile Detention Center	9
Non-offenders held		0
Adjudicated S.O.s held without a proper VCO		5
Sight and Sound Separation		0
	Adult Jail	0
	Adult Lockup	0
	Juvenile Detention Facility	0
	Juvenile Correctional Facility	0
	Court Holding	0
Jail Removal – Delinquent held over 6 hours		22
	Adult Jail	4
	Adult Lockup	18

- A list of facilities in which incidents occurred for which the state utilized the Valid Court Order (VCO) exception, including data on the number of incidents at each facility:

[See Attachment 4: 2017 Colorado’s Juvenile Detention Center Report – ASO, ADJSO, and VCO Data, and Violations](#)

- An explanation of how the state verifies that the criteria for using the VCO exception have been satisfied (where applicable):

The following are the Colorado Rules of Juvenile Procedure for status offenders. It reflects the “old” Valid Court Order (before the 2002 reauthorization). The next several pages are samples of the forms used for the:

- 1) the first Valid Court Order (compels the behavior),
- 2) the Second Valid Court (sentences the juvenile to detention), and
- 3) the format for the Written Report. (or see Attachment 11)

All District Courts in Colorado use these forms, or reasonable facsimiles.

[See Attachment 11: Colorado Valid Court Order \(VCO\) Process](#)

Chapter 28. Colorado Rules of Juvenile Procedure

Part Three. Delinquency

3.8. Status Offenders

Juveniles alleged to have committed offenses, which would not be a crime, if committed by an adult (i.e., status offenses), shall not be detained for more than 24 hours, excluding non-judicial days, unless there has been a detention hearing and judicial determination that there is probable cause to believe the juvenile has violated a valid court order. A juvenile in detention alleged to be a status offender and in violation of a valid court order

shall be adjudicated within 72 hours exclusive of non-judicial days of the time detained. A juvenile adjudicated of being a status offender in violation of a valid court order may not be disposed to a secure detention or correctional placement unless the court has first reviewed a written report prepared by a public agency which is not a court or law enforcement agency. The report shall address the juvenile's behavior and the circumstances that brought the juvenile before the court and shall assess whether all less restrictive dispositions have been exhausted or are clearly inappropriate. The court is not bound by the recommendations contained in the report. Nothing herein shall prohibit the court from ordering the placement of juveniles in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this rule. Juveniles alleged to have violated C.R.S. 18-12-108.5 or adjudicated delinquent for having violated C.R.S. 18-12-108.5 are exempt from the provisions of this rule.

COMMITTEE COMMENT (Colorado's Committee on the Valid Court Order)

The reference to "valid court orders" is taken from the federal Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974, as amended, which are found at 42 U.S.C.A. 5601-5751. The Office of Juvenile Justice and Delinquency Prevention in April, 1995, issued final regulations to implement that portion of the JJDP, as amended in 1992, which addresses the detention and secure confinement of status offenders. These regulations, which are found at 28 C.F.R. 31.303 (f)(3) set forth the legal requirements for issuing of "valid court orders", the violation of which by a status offender may, in certain circumstances, authorize juvenile courts to detain and/or commit such youth to secure confinement. The appendix to these rules contains a form for issuing a valid court order and a form order for making a secure placement disposition for violation of a valid court order.

The Committee's intent in drafting this rule is not to encourage more frequent use of detention for status offenders. The Committee recognizes that Congress and the OJJDP assumed that courts would exhibit self-restraint and exercise the valid court order exclusion only in cases of status offenders who chronically fail to follow court orders. The Colorado supreme court in the Interest of J.E.S., 817 P.2d 508 (Colo. 1991) quoted from *In Re Ronald S.*, 9 Cal. App. 3D 866, 138 Cal. Rptr. 387 (1977) to comment on the use of secure confinement for status offenders.

Certainly not all [status offenders] need to be placed in secure facilities. However, some do and in these cases the juvenile court judge must have the authority to detain in a secure facility if status offenders are to remain in the juvenile court. (69 Cal. App. 3d at 875, 138 Cal. Rptr. at 393).

Ohio Representative Ashbrook, who sponsored the valid court order amendment, stated that without the amendment courts would be limited in their ability to work with youths who continually flout the will of the court and that it would make "helping that young person much more difficult." (126 Cong. Rec. H. 10 10932). Rep. Ashbrook contemplated that the valid court order exception would primarily be used to provide treatment rather than punishment.

The Committee recommends that the Courts adopt this benevolent approach and use the valid court order exception to ensure that secure placements are used only for recalcitrant status offenders.

Runaways who are in violation of their probation (for a delinquent offense) do not fall under this rule.

ANNOTATIONS

Source: Entire rule and committee comment added and adopted June 12, 1997, effective January 1, 1998; committee comment corrected November 19, 1997; committee comment amended and adopted December 14, 2000, effective January 1, 2001.

SPECIAL FORM INDEX

- Form 1. Valid Court Order for Status Offenders.
- Form 2. Secure Placement as Disposition for Violation of Valid Court Order.
- Form 3. Valid Court Order Written Report

Form 1. VALID COURT ORDER FOR STATUS OFFENDERS

In the Juvenile Court of _____ County, State of Colorado

Court Address: _____

THE PEOPLE OF THE STATE OF COLORADO

In the Interest of:

_____ Child(ren) and Concerning
_____ Parent(s)/Guardian(s)

This matter comes before the Court in the exercise of its jurisdiction provided by C.R.S. 19-1-104 upon petition _____ concerning the above named child. This matter was heard before the Honorable _____, Judge of the Juvenile Court of _____ County, Colorado as an adjudicatory hearing on the above cited petition which alleges that said child is a status offender as that term is defined in the Interest of J.E.S., 817 P.2d 508 (Colo. 1991) and 28 CFR Sec. 31.304(h).

- I. A. Personally before the Court was:
- B. Before the Court on service of process were:
- C. Counsel present for the child was:
- D. Upon testimony of the witnesses, the evidence received, reports received, statements and arguments of counsel, and the entire record, the Court finds:

___ that the child has within a reasonable time been served with a written copy of the charges;

- ___ that the child has been informed he/she has the right to a hearing on the matter before the court;
- ___ that the child has been informed of the nature of this proceeding and the possible consequences associated with it;
- ___ that the child has been informed that he/she has a right to legal counsel and that counsel can be appointed at no charge to the child if the child is indigent and cannot afford counsel;
- ___ that the child has been informed that he/she has the right to call witnesses in his/her own behalf and to confront and cross examine witnesses against him/her;
- ___ that the child has been informed that he/she has a right to have a transcript or record of this proceeding;
- ___ that proof beyond a reasonable doubt exists that said child is guilty as charged of the allegations contained in the petition for the following reasons:
- ___ that the future conduct of the child should be regulated by requiring the child to do _____ (and) (or) prohibiting said child from _____.
- ___ that the child was warned that the child could be sanctioned for violating this order and such sanction could include placement in a secure detention or correctional facility;
- ___ that a written copy of this order should be provided to the child, the child's attorney, and the child's legal guardian;
- ___ that the child was informed that he/she has a right to appeal this order; within the meaning of the Colorado Children's Code.

II. IT IS, THEREFORE ORDERED:

1. That _____ is hereby prohibited from doing the following:
_____ until _____ or until this injunction is modified or eliminated by subsequent court order.
2. That _____ is hereby required to do the following:
_____ until _____ or until this mandatory injunction is modified or eliminated by subsequent court order.
3. That the child shall immediately accompany _____ and receive a copy of this order.

4. That the clerk office shall mail a copy of this order to _____, the child's attorney and to _____, the child's legal guardian.

5. It is further ordered:

Entered this _____ day of _____, 20____.

JUDGE

Amended and adopted by the Court, June 28, 2001, and effective July 1, 2001.

Form 2. SECURE PLACEMENT AS DISPOSITION FOR VIOLATION OF VALID COURT ORDER

IN THE JUVENILE COURT OF _____ County, State of Colorado

THE PEOPLE OF THE STATE OF COLORADO

In the Interest of:

_____ Child(ren) and Concerning _____
Parent(s)/Guardian(s)

This matter comes before the Court in the exercise of its jurisdiction provided by C.R.S. 19-1-104 upon petition _____ concerning the above named child. This matter was heard before the Honorable _____, Judge of the Juvenile Court of _____ County, Colorado on the petition which alleges that said child is in violation of a valid court order issued by this court on the _____ day of _____ 20____. Said child was previously adjudicated guilty on petition _____ and is a status offender as that term is defined in the Interest of J.E.S., 817 P.2d 508 (Colo. 1991) and 28 CFR Sec. 31.304(h).

I. A. Personally before the Court was:

B. Before the Court on service of process were:

C. Counsel present for the child was:

D. Upon testimony of the witnesses, the evidence received, reports received, statements and arguments of counsel, and the entire record, the Court finds:

_____ that the child has within a reasonable time been served with a written copy of the charges;

- _____ that the child has been informed he/she has the right to a hearing on the matter before the court;
- _____ that the child has been informed of the nature of this proceeding and the possible consequences associated with it;
- _____ that the child has been informed that he/she has a right to legal counsel and that counsel can be appointed at no charge to the child if the child is indigent and cannot afford counsel;
- _____ that the child has been informed that he/she has the right to call witnesses in his/her own behalf and to confront and cross-examine witnesses against him/her;
- _____ that the child has been informed that he/she has a right to have a transcript or record of this proceeding;
- _____ that a probable cause hearing or adjudicatory hearing was held on the _____ day of _____ 20__ at _____ a.m./p.m. which is within 24 hours, excluding weekends and holidays, of the juvenile's placement in secure detention which occurred at _____ a.m./p.m. on the _____ day of _____ 20__;
- _____ that this violation hearing is within 72 hours, excluding weekends and holidays, of the juvenile's placement in secure detention which occurred on the _____ day of _____ 20__;
- _____ that proof beyond a reasonable doubt exists that said child has violated the valid court order issued by the court on the _____ day of _____ 20__, in the following respects:
- _____ that the court has reviewed the written report prepared by _____, a public agency independent of the court and law enforcement, has reviewed the account provided therein of the juvenile's behavior and the circumstances which brought the juvenile before the court, and has reviewed the assessment of whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate;
- _____ that there is no less restrictive alternative appropriate to the needs of the juvenile and the community;
- _____ that the juvenile should be placed _____ to best serve the interests of the juvenile and the community;
- _____ that the child was informed he/she has a right to appeal this order within the meaning of the Colorado Children's Code.

II. IT IS, THEREFORE ORDERED:

1. That _____, who violated a valid court order, is placed _____ as the disposition of this court.

2. It is further ordered:

Entered this _____ day of _____, 20____.

JUDGE

Amended and adopted by the Court, June 28, 2001, and effective July 1, 2001.

Form 3. Valid Court Order Written Report

Per the Office of Juvenile Justice and Delinquency Prevention Consolidated Federal Regulation (28CFR Part 31) and the Colorado Judicial Procedure Rule Change #1997 (17) CRJP 3.8 Status Offenders.

Chapter 28 Colorado Rules of Juvenile Procedure. Part Three. Delinquency.

The Judge should review this report before the Violation Hearing.

Please be as complete and concise as possible for the Judge's benefit.

_____ Case Number

_____ Juvenile Name

_____ Report Prepared By

_____ Title and Agency

Date Report was Prepared: _____

In entering any order that directs or authorizes the placement of a status offender in a secure facility the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a Valid Court Order and applicable due process rights were afforded the juvenile and in the case of a violation hearing the judge must obtain and review a written report that:

1. Reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such an order; (Describe the behavior(s) of the juvenile and why the case was referred to the court. Please be as specific as possible. Attach additional pages as needed).
2. Determines the reasons for the juvenile's behavior; (Please be as specific as possible. Describe who you have interviewed to determine the reasons, what tests/assessments

have been conducted, what the juvenile has said, what teachers/agencies have stated. Attach additional pages as needed).

3. Determines whether all dispositions, other than secure confinement, have been exhausted or are clearly inappropriate. (Please list ALL alternatives that have been tried and failed and list all alternatives that have not been tried but are clearly inappropriate).

It is my assessment that it is in the best interest of the minor child and the community that this child should serve a period of detention due to the child's actions in Contempt of this Court, and that are no less restrictive alternative placements appropriate to the needs of the minor child.

Recommended this _____ of _____, _____
Date Month Year

Signature

Printed Name

Explanation of how the Valid Court Order is monitored in Colorado

The Chief Justice of the Colorado Supreme Court Issued Rule Change 1997(17), effective January 1, 1998, under Chapter 28, Colorado Rules for Judicial Procedure, clarifying the use of the Valid Court Order for Status Offenders and the order for Secure Placement as a Disposition for the Violation of a Valid Court Order. The Rule Change and samples of the two orders precede this explanation. Colorado follows the VCO regulation issued prior to 2002 as our Judicial Rule mirrors it.

Colorado District court judges must use these orders when initially placing status offenders in a secure juvenile detention facility under a Valid Court Order and later when sentencing a status offender to secure juvenile detention facility for violation of that court order. These two orders mirror, word for word, the criteria contained in the OJJDP regulation issued prior to the 2002 reauthorization.

In addition to judicial rule, Colorado has several statutes that address contempt of court.

CRS 19-2-402: (b) Detention facilities operated by or under contract with the department of human services, subject to limitations on physical capacity and programs, shall receive and provide care for any juvenile arrested for or convicted of a violation of provision of articles 1 to 15 of title 33, C.R.S., or any rule or promulgated there under; or any article of title 42, C.R.S., or any municipal or county ordinance and for any juvenile found in contempt of court in connection with a violation or alleged violation of any of those articles or any municipal or county ordinance.

CRS 19-2-507: (3) the juvenile shall be released to care of such juvenile's parents or other responsible adult. The court may make reasonable orders as conditions of said release. In addition, the court may provide that any violation of such orders shall subject the juvenile to contempt of court sanctions of the court.

CRS 19-3-504: (1) any person summoned or required to appear as provided in section 19-3-5-3 who has acknowledged service and fails to appear without reasonable cause may be proceeded against for contempt of court.

In addition, the Supreme Court of the State of Colorado, in legal opinion No. 90SA357, J.E.S. and concerning E.S. and D.S. ruled that, "In our view, the legislature's enactment of the amended section 22-33-108(7) has so deprived those courts having jurisdiction over truants of their inherent contempt power as to render them unable to preserve the dignity of the court and to administer their judicial functions in an effective manner. If responsibility for the enforcement of compulsory school attendance is to remain in the courts, the judiciary's power to enforce its orders must remain intact."

Therefore, 22-3-108 was rewritten the following year, in 1992, to state the following:
CRS 22-3-108 (7): If a child does not comply with the valid court order issued against the child or against both parent and the child, the court may order that an investigation be conducted and the court may order the child to show cause why he or she should not be held in contempt of court. The court may include as a sanction after a finding of contempt and appropriate treatment plan that may include, but not be limited to, community service to be performed by the child, supervised activities, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education. (b) The court may impose on the child as a sanction for contempt of court a sentence to incarceration to any juvenile detention facility owned or operated by or under contract with the department of human services pursuant to section 19-2-402, and any rules promulgated by the Colorado Supreme Court.

In 2008, HB 1112 was enacted; a portion of this legislation concerns the Valid Court Order.

CRS 22-22-108 Judicial Proceedings: (3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106(a) (4) of the Colorado rules of civil procedure and Rule 3.8 of the Colorado Rules of Juvenile Procedures. (7)(a) If the child does not comply with the Valid Court Order issued against the child or against both the parent and the child, the court may order that an investigation be conducted as provided in section 19-2-510(2) CRS, and the court may order the child to show cause why he or she should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan that may include, but not be limited to, community service to be performed by the child, supervised activities, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education. (8) The court may impose on the child as a sanction for contempt of court a sentence to incarceration to any juvenile detention facility operated by or under contract with the department of human services pursuant to section 10-2-402 CRS, and any rules promulgated by the court.

All juveniles who are placed in juvenile detention centers and juvenile correctional facilities are entered into Colorado's Department of Human Services' database called Trails. In 2009, a new reporting system was developed by the NYC. The DCJ compliance monitor is now able to run the juvenile detention center data reports herself; the NYC research unit developed a

program to allow her to run the data reports once a month directly from the Trails program which she has access to. A report is run once every six months and produces a report showing every juvenile admitted to detention during that six month time period.

After the reports on individual juvenile detention centers are run, the DCJ compliance monitor transfers this information to an Excel spreadsheet.

The DCJ compliance monitor has full access to the Trails data on individual juveniles from the computer located in her office. The Trails software contains “pick lists” for several items, including offense, reason detained, detention sentence and detention reason. The software requires that a “time placed in juvenile detention center” and “time released from juvenile detention” must be entered before the user can move onto the next screen.

If the Trails database is missing critical information, for example, a court docket number, the DCJ compliance monitor emails either the SB 94 coordinator or the juvenile detention center and asks them to retrieve this data from the individual case files. If the juvenile has been sentenced to the juvenile detention center, the compliance monitor records the court docket number and judge’s name. That is usually contained in Trails, if not, that information must be retrieved from the juvenile detention center. Once that is completed, the compliance monitor then checks the juvenile’s court records at the district court.

The Director of DCJ coordinated access to the Colorado Courts database for the compliance monitor. This allows the compliance monitor to access court summaries, docket numbers and judge’s names from a search of either the docket number or juvenile’s name. It has proven to be a valuable resource in data collection and verification.

Sentenced status offenders are not recorded as violations if there are copies of the Valid Court Order for Status Offenders (1st order), the written report, and the order for Secure Placement as a Disposition for the Violation of a Valid Court Order (2nd order) in the juvenile’s file. If one of these is missing; or not completed properly, it is recorded as a violation. The written report must be signed and dated either on or before the sentencing hearing. The 2nd order must be signed and dated either before or on the day of sentencing. Please note that while OJJDP requires a 10% inspection of VCO’s, the DCJ compliance monitor reviews 100% of VCO’s at each District court.

The written report must contain the following information:

- a. Description of the behavior of the juvenile and the circumstances under which the juvenile was brought before the court; and
- b. Reasons for the juvenile’s behavior; and
- c. A determination that all dispositions, other than secure confinement, have been exhausted or are clearly inappropriate.

If violations are discovered, they are discussed with the judge and the judge is provided with training (both verbal and written guidance) on how to use the Valid Court Order properly to thereby prevent further violations.

- A copy of the state’s compliance monitoring manual.

Colorado’s Compliance Monitoring Policy and Procedures Manual can be accessed at:
<https://cdpsdocs.state.co.us/oajja/CM/2016ComplianceMonitoringPoliciesandProcedures.pdf>