

ADOPTED**AMERICAN BAR ASSOCIATION****CRIMINAL JUSTICE SECTION****REPORT TO THE HOUSE OF DELEGATES****RECOMMENDATION**

1 RESOLVED, That the American Bar Association urges federal, state, tribal, local,
2 and territorial governments to develop comprehensive plans to ensure that the public is
3 informed about the operations of all correctional and detention facilities (facilities for the
4 confinement of individuals for alleged or adjudicated crimes or delinquent acts) within
5 their jurisdiction and that those facilities are accountable to the public.
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7 FURTHER RESOLVED, That the American Bar Association urges federal, state,
8 tribal, and territorial governments to establish public entities that are independent of any
9 correctional agency to regularly monitor and report publicly on the conditions in all
10 prisons, jails, and other adult and juvenile correctional and detention facilities operating
11 within their jurisdiction.
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13 FURTHER RESOLVED, That the American Bar Association adopts the “Key
14 Requirements for the Effective Monitoring of Correctional and Detention Facilities”,
15 dated August 2008, and urges that federal, state, tribal, local and territorial monitoring
16 entities meet these Key Requirements as minimum standards.
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18 FURTHER RESOLVED, That the American Bar Association recommends that
19 the federal government:
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- 21 (1) Provide technical assistance and training to facilitate the establishment of
22 monitoring entities that meet the “Key Requirements for the Effective
23 Monitoring of Correctional and Detention Facilities.”
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- 25 (2) Require that jurisdictions receiving federal funds for correctional or detention
26 facilities ensure that the facilities are monitored by at least one entity meeting
27 these requirements.
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- 29 (3) Develop common definitions for the collection and reporting of key
30 performance data by correctional and detention facilities.
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1 **KEY REQUIREMENTS FOR THE EFFECTIVE MONITORING**
2 **OF CORRECTIONAL AND DETENTION FACILITIES**
3 **(AUGUST 2008)**
4

- 5 1. The monitoring entity is independent of the agency operating or utilizing the
6 correctional or detention facility.
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8 2. The monitoring entity is adequately funded and staffed.
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10 3. The head of the monitoring entity is appointed for a fixed term by an elected official,
11 is subject to confirmation by a legislative body, and can be removed only for just cause.
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13 4. Inspection teams have the expertise, training, and requisite number of people to meet
14 the monitoring entity’s purposes.
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16 5. The monitoring entity has the duty to conduct regular inspections of the facility, as
17 well as the authority to examine, and issue reports on, a particular problem at one or more
18 facilities.
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20 6. The monitoring entity is authorized to inspect or examine all aspects of a facility’s
21 operations and conditions including, but not limited to: staff recruitment, training,
22 supervision, and discipline; inmate deaths; medical and mental-health care; use of force;
23 inmate violence; conditions of confinement; inmate disciplinary processes; inmate
24 grievance processes; substance-abuse treatment; educational, vocational, and other
25 programming; and reentry planning.
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27 7. The monitoring entity uses an array of means to gather and substantiate facts,
28 including observations, interviews, surveys, document and record reviews, video and tape
29 recordings, reports, statistics, and performance-based outcome measures.
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31 8. Facility and other governmental officials are authorized and required to cooperate fully
32 and promptly with the monitoring entity.
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34 9. To the greatest extent possible consistent with the monitoring entity’s purposes, the
35 monitoring entity works collaboratively and constructively with administrators,
36 legislators, and others to improve the facility’s operations and conditions.
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38 10. The monitoring entity has the authority to conduct both scheduled and unannounced
39 inspections of any part or all of the facility at any time. The entity must adopt procedures
40 to ensure that unannounced inspections are conducted in a reasonable manner.
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42 11. The monitoring entity has the authority to obtain and inspect any and all records,
43 including inmate and personnel records, bearing on the facility’s operations or conditions.
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45 12. The monitoring entity has the authority to conduct confidential interviews with any

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46 person, including line staff and inmates, concerning the facility's operations and
47 conditions; to hold public hearings; to subpoena witnesses and documents; and to require
48 that witnesses testify under oath.

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50 13. Procedures are in place to enable facility administrators, line staff, inmates, and others
51 to transmit information confidentially to the monitoring entity about the facility's
52 operations and conditions.

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54 14. Adequate safeguards are in place to protect individuals who transmit information to
55 the monitoring entity from retaliation and threats of retaliation.

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57 15. Facility administrators are provided the opportunity to review monitoring reports and
58 provide feedback about them to the monitoring entity before their dissemination to the
59 public, but the release of the reports is not subject to approval from outside the monitoring
60 entity.

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62 16. Monitoring reports apply legal requirements, best correctional practices, and
63 other criteria to objectively and accurately review and assess a facility's policies,
64 procedures, programs, and practices; identify systemic problems and the reasons
65 for them; and proffer possible solutions to those problems.

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67 17. Subject to reasonable privacy and security requirements as determined by the
68 monitoring entity, the monitoring entity's reports are public, accessible through
69 the Internet, and distributed to the media, the jurisdiction's legislative body, and
70 its top elected official.

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72 18. Facility administrators are required to respond publicly to monitoring reports;
73 to develop and implement in a timely fashion action plans to rectify problems
74 identified in those reports; and to inform the public semi-annually of their
75 progress in implementing these action plans. The jurisdiction vests an
76 administrative entity with the authority to redress noncompliance with these
77 requirements.

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79 19. The monitoring entity continues to assess and report on previously identified
80 problems and the progress made in resolving them until the problems are
81 resolved.

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83 20. The jurisdiction adopts safeguards to ensure that the monitoring entity is
84 meeting its designated purposes, including a requirement that it publish an annual
85 report of its findings and activities that is public, accessible through the Internet,
86 and distributed to the media, the jurisdiction's legislative body, and its top elected
87 official.

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