

Summary of Federal Statutes on Detaining Juveniles

By Facility Type

Juvenile Detention (JJDP Act Section 223(a)(11))

- Prohibited for status offenders (runaway, truancy, mip/mic, curfew), non-offenders, civil-type offenders or alien juveniles, except for brief periods, less than 24 hours, for processing *accused* offenders (prohibited for *adjudicated* offenders for any length of time). The 24 hour provision is limited to the purposes of identification, investigation, release to parents, or transfer to non-secure program.
- Status offenders who fail to appear for court hearings remain status offenders and cannot be upgraded to delinquent offenders for their failure to appear.
- Prohibited for out-of-state runaways beyond 24 hours solely for the purpose of being returned to proper custody in another state.
- Allowed for juveniles held pursuant to the Interstate Compact on Juveniles.

Adult Jails & Lock-ups (JJDP Act Section 223(a)(12) and (13))

- Prohibited for status offenders (runaways, truants, mip/mic), non-offenders (abused and neglected), civil-type offenders or alien juveniles.
- Prohibited for *accused* delinquent offenders beyond a 6-hour "grace period" for purposes of processing or release or transfer to a juvenile facility.¹
- Prohibited for *adjudicated* delinquent offenders except for brief periods following a court appearance in which the juvenile is awaiting transfer.
- Sight and sound separation from adult offenders must be maintained at all times.

¹ Regulations allow for up to 24 hours for the temporary detention of juveniles accused of delinquent offenses awaiting an initial court appearance if the following conditions are met:

- The geographic area having jurisdiction over the juvenile must be outside a metropolitan statistical area;
- A determination must be made that there is no existing acceptable alternative placement for the juvenile pursuant to criteria developed by the State and approved by OJJDP;
- The adult jail must have been certified by the state to provide for the sight and sound separation of juveniles and adult inmates;
- A youth-specific admission screening is used and there is continuous visual supervision of juveniles incarcerated pursuant to this exception.

Collocated Facilities (JJDP Act Section 223(a)(11), (12) and (13))

- Must ensure separation between juveniles and adults such that there could be no sustained sight or sound contact between juveniles and adult inmates. Separation can be achieved architecturally or through time-phasing of common use nonresidential areas.
- Facility must have separate juvenile and adult program areas, including recreation, education, vocation, counseling, dining, sleeping, and general living activities.
- If the same staff are used to serve both adult and juvenile populations, the staff must be trained and certified to work with juveniles. At a minimum, the training must include youth development, adolescent physical and mental health, and nonviolent crisis intervention.
- The juvenile facility must meet the state standards and licensing requirements for juvenile detention centers on the same basis as a free-standing facility.
- The requirements listed above for adult jails & lock-ups and juvenile detention apply to those that are collocated.

Federal JJDP Act and federal policies regarding detention of older juveniles
(NDACo Analysis of federal guidance)

Age on:		Legal Status	Juvenile Detention	Adult Jail
Offense Date	Detention Date			
<18	<18	Not Waived-Juvenile	YES	NO
<18	<18	Waived to Adult	YES (1)	YES
<18	18 & Over	Not Waived-Juvenile	YES	YES (2)
<18	18 & Over	Waived to Adult	YES (1)	YES

(1) Federal regulations allow "juvenile offender" waived into adult criminal court to remain in a Juvenile Facility for 6 months after their 18th birthday consistent with state and local laws and policies. OJJDP Administrator further determined (memo dated 8/18/08) that these youth could be held in a juvenile facility until they reach the State's maximum age of juvenile jurisdiction.

(2) Depending upon circumstances and state and local laws and policies.

Transferred or Waived Juveniles

A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court does not have to be separated from adult criminal offenders. This is due to the fact that such a juvenile is not an accused or adjudicated *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 a 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 a 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.