

CHAPTER 94**DETENTION OF JUVENILES IN MUNICIPAL
AND OTHER ADULT FACILITIES****Authority**

N.J.S.A. 2A:4A-31; 2A:4A-32; 2A:4A-37; 2A:4A-60; 2A:4A-88,
47:1A-1 et seq., 52:17B-170e(6), (13), (14), (17), (21)
and (22) and 52:17B-171a(5)

Source and Effective Date

R.2006 d.49, effective February 6, 2006.
See: 37 N.J.R. 3561(a), 38 N.J.R. 1007(b).

Chapter Expiration Date

Chapter 94, Detention of Juveniles in Municipal and Other Adult
Facilities, expires on February 6, 2011.

Chapter Historical Note

Chapter 94, Detention of Juveniles in Municipal and Other Adult
Facilities, was adopted as new rules by R.2006 d.49, effective February
6, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL REQUIREMENTS**13:94-1.1 Purpose and scope**

(a) The purposes of this chapter are:

1. To define and to clarify the special conditions and restrictions that apply when juveniles are detained in adult facilities;
2. To provide a basis for monitoring such facilities under the Federal Juvenile Justice and Delinquency Prevention Act of 2002, P.L. 107-273, 42 U.S.C. §§5601 et seq.;
3. To provide a regulatory framework for enforcing requirements of the New Jersey Code of Juvenile Justice, N.J.S.A. 2A:4A-20 et seq., including, but not limited to, provisions governing the taking of a juvenile into custody

and limiting the amount of time a juvenile may be held in short term custody; and

4. To promote the health and safety of juveniles detained in adult facilities.

(b) This chapter applies to all adult facilities, as defined in N.J.A.C. 13:94-1.2.

13:94-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act of delinquency” means the commission of an act by a juvenile that if committed by an adult would constitute either a crime, a disorderly persons offense, a petty disorderly persons offense, or a violation of any other penal statute, ordinance or regulation, as limited by N.J.S.A. 2A:4A-23.

“Adult facility” or “facility” means any jail, lockup or other similar facility used for the detention of adults and which may be used to detain juveniles, whether or not the facility was designed or intended for such purpose, and that is operated either by:

1. The State of New Jersey;
2. A county, township, municipality, or other instrumentality of the State of New Jersey;
3. An agency or authority of, or administered in whole or part by the State of New Jersey;
4. A private university, arena, amusement park or other similar institution.

“Commission” means the New Jersey Juvenile Justice Commission.

“Department of Corrections” means the New Jersey Department of Corrections.

“Detain” means any holding of a person in police custody, whether pending court or other disposition of charges filed or to be filed against the person, or under circumstances where the person is being held on account of a serious danger to the person’s health or safety.

“Detention” means a situation in which a person is being detained.

“JJDP Act” means the Juvenile Justice and Delinquency Prevention Act of 2002, P.L. 107-273, 42 U.S.C. §§5601 et seq., and regulations thereunder, 28 CFR 31.303.

“Non-offender” means a detained juvenile, other than one charged with an act of delinquency or a status offense.

“Non-secure custody” means detention in conditions such that an individual is not being held in secure custody.

“Secure area” means a building or an area within a building that restricts the mobility of an individual in custody through the use of hardware or architectural features.

“Secure custody” means detention in conditions such that:

1. The individual is held in a secure room or cell or other secure area;
2. The area where the individual is held is located within a larger secure perimeter;
3. The area where the individual is held is designed or intended to be used for residential purposes;
4. The individual is physically secured to a cuffing rail or other stationary object;
5. The individual is held in conditions that violate the sight and sound restrictions of N.J.A.C. 13:94-2.1;
6. The individual is held in conditions that violate the supervision requirement of N.J.A.C. 13:94-2.5(d); or
7. The individual is held in a facility with a delayed egress device having a delay of greater than 30 seconds, or any delayed egress device that is not in compliance with the Building Subcode of the Uniform Construction Code, N.J.A.C. 5:23.

“Sight and sound separation” means the maintenance of physical separation between a juvenile and a securely held adult so that both sustained visual contact and direct and sustained oral communication between them is not possible.

“Status offender” means a juvenile accused, charged or adjudicated for conduct that, under the laws of the jurisdiction in which the conduct took place, would not be a crime if committed by an adult, or a juvenile detained protectively because the juvenile’s health or safety is in serious danger.

“Status offense” means conduct that if committed by an adult would not constitute a crime in the jurisdiction in which the conduct occurred.

13:94-1.3 Legal requirements

(a) The detention of a juvenile in a facility is subject to the requirements of:

1. This chapter;
2. The JJDP Act;
3. The New Jersey Code of Juvenile Justice, N.J.S.A. 2A:4A-20 et seq.;
4. All other applicable laws, regulations and other authorities related to the confinement of juveniles, including, but not limited to, requirements addressing the deinstitutionalization of status offenders and non-offenders,

sight and sound separation of juveniles and adults, and timely removal of juveniles from adult secure facilities; and

5. All applicable public health, safety, construction, building, fire and other codes, laws and regulations promulgated either by the State of New Jersey or by the county, township or municipality in which the facility is located.

(b) Should there be at any time a conflict between a provision of this chapter and a provision of the JJDP Act or of any other law or authority, the provision most protective of a juvenile shall govern.

13:94-1.4 Commission oversight authority and responsibility

(a) The Commission is authorized to issue advisory recommendations appropriate to assisting facilities to comply with the provisions of this chapter. Such recommendations may address:

1. The physical design and layout of facilities, including the design and furnishing of secure holding rooms or cells;
2. Operational procedures at facilities;
3. Procedures and formats for recordkeeping and reporting; and
4. Facility staffing levels;

(b) A facility shall grant the Commission access to staffing and other records, and shall comply with Commission requests for reports and information, reasonably necessary to verifying the facility’s compliance with the provisions of this chapter.

13:94-1.5 Confidentiality of information relating to juveniles

(a) Law enforcement records pertaining to juveniles charged as a delinquent or found to be part of a juvenile-family crisis are confidential. All such records:

1. Shall be strictly safeguarded from public access;
2. May be released only in accordance with the provisions of N.J.S.A. 2A:4A-60; and
3. Shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 2. OPERATIONAL REQUIREMENTS

13:94-2.1 Sight and sound separation

Except as may be necessary when incidental to initial processing, sight and sound separation shall be maintained at