

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

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 94, Detention of Juveniles in Municipal and Other Adult Facilities, expires on August 5, 2013. See: 43 N.J.R. 1203(a).

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.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 94, Detention of Juveniles in Municipal and Other Adult Facilities, was scheduled to expire on August 5, 2011. See: 43 N.J.R. 155(a).

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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; or
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

all times between a juvenile and an adult held in secure custody. This requirement applies equally with respect to non-offender juveniles, status offender juveniles and juveniles detained for an act of delinquency.

13:94-2.2 Limitations on holding juveniles in custody and six-hour restrictions

(a) A juvenile held in secure custody shall be placed only in a holding room, cell or other designated area that has been determined by the Commission to conform to prevailing safety standards for the detention of juveniles.

(b) Status-offenders and non-offenders shall not be held in secure custody.

(c) Status-offenders, non-offenders and juveniles held on a charge of delinquency but not being held in secure custody, shall not be held in custody for more than six hours.

(d) A juvenile held on a charge of delinquency may be held in secure custody, provided that such secure custody may not exceed six hours commencing from the time the juvenile was placed in secure custody.

1. The six-hour restriction set forth in this section shall not apply to the holding of a juvenile in a judicial facility in connection with a court appearance.

13:94-2.3 Notification to parent or guardian

(a) Upon taking a juvenile into custody, the detaining officers shall immediately notify the parents or guardians of the juvenile:

1. That the juvenile is being detained;
2. Where the juvenile is being held; and
3. The reasons that the juvenile is being detained.

13:94-2.4 Exceptions for extraordinary circumstances

(a) In the event of an extraordinary circumstance, the highest-ranking facility staff member on duty may determine that a juvenile should be held in conditions that deviate from the restrictions otherwise imposed by this chapter.

1. Any such deviation shall be only to the extent and duration as is required to address the specific extraordinary circumstance.

(b) Each determination made under (a) above shall be explained in a written report that describes the facts upon which the determination was based, the deviations from restrictions otherwise imposed by this chapter, the duration of such deviations, and why the deviations were necessary to address the extraordinary circumstance.

1. The report shall be prepared and signed by the highest ranking person who made or approved the determination, within eight hours of the determination it

covers, and shall be maintained on file as part of the juvenile admissions log required by N.J.A.C. 13:94-2.6.

(c) For the purpose of this section, an extraordinary circumstance is one in which a deviation from restrictions otherwise imposed by this chapter is:

1. Necessary for the safety and security of either the juvenile or others, including facility staff and the public; or
2. Necessary for the safe and secure operation of the facility.

13:94-2.5 Supervision of juveniles

(a) Facility staff shall provide supervision for all detained juveniles. The level of supervision shall be that necessary to ensure the safety and well-being of the juvenile, facility staff and the public at large. Factors to be considered when determining the appropriate level of supervision shall include, but shall not necessarily be limited to:

1. The juvenile's mental and physical health;
2. The nature of the offense charged, if any; and
3. The physical environment of the area where the juvenile will be held, including any objects or architectural elements that could facilitate self-injury or injury to others.

(b) A law enforcement officer or other facility staff shall directly observe a juvenile placed in a secure holding room or cell at least every 15 minutes.

(c) When a juvenile is placed in a secure holding room or cell or other designated area with potential suicide hazards, or other safety hazard, continuous face-to-face supervision shall be maintained by a law enforcement officer or other facility staff.

1. Such hazards include, but are not limited to, barred walls, doors and windows; door knobs; exposed pipes; and any other object or design feature to which an item may be tied.

(d) A detained juvenile, other than a juvenile detained in a secure holding room or cell, shall not be left unattended at any time.

(e) A law enforcement officer or other facility staff shall provide continuous face-to-face visual supervision, if the juvenile:

1. Appears intoxicated;
2. Appears to be under the influence of drugs;
3. Shows signs of emotional disturbance or risk of self-injury; or
4. Is detained in a secure holding room or cell in which there is a suicide or safety hazard.

(f) Audio/video monitoring systems shall not be used as a substitute for required continuous face-to-face supervision of juveniles.

13:94-2.6 Juvenile admissions and secure custody logs

(a) Each facility shall maintain a juvenile admissions log that documents all juveniles detained at the facility.

(b) The juvenile admissions log shall include the following information concerning each detained juvenile:

1. Name;
2. Date of birth;
3. Gender;
4. Race/ethnicity;
5. The charges or other circumstances in connection with which the juvenile is being held;
6. The date and time of admission into the facility;
7. The date and time of release from the facility;
8. If the juvenile is held beyond six hours in the facility;
9. Whether the sight and sound separation required by N.J.A.C. 13:94-2.1 has been maintained; and

10. Information sufficient to enable the reader to determine whether the juvenile was held in secure or non-secure custody.

(c) A separate secure custody log shall be maintained for each juvenile held in a secure holding room or cell. The secure custody log shall be kept or posted in close proximity to the secure holding room or cell, and shall contain the following information:

1. The name of the juvenile;
2. The cell or room number;
3. The date and time the juvenile was placed in the cell or room;
4. The date and time of release from the cell or room; and
5. A record of each inspection of the juvenile by law enforcement personnel.
 - i. Each inspection shall be recorded, showing the date and time, describing the general condition of the juvenile, and shall be initialed by the inspecting law enforcement personnel.
 - ii. Inspections shall be made not less frequently than every 15 minutes.