



Law Enforcement Facilities
Juvenile Justice and Delinquency Prevention Act
Commonly Asked Questions



Deinstitutionalization of status offender (DSO) Requirement

1. Under what conditions can a non-offender be detained?

Non-Offenders may be processed with no time limitations in a non secure facility or in a nonsecure status within a secure facility. Non-offenders cannot be held securely for any amount of time where they have contact with status or juvenile offenders.

2. Under what conditions can a status offender be detained?

Status offenders may be held with no time limitations in a nonsecure facility or in a nonsecure status in a secure facility; they can be held securely in a juvenile detention facility for up to 24 hours excluding weekends and judicial holidays prior to an initial court appearance and for an additional period following an initial court appearance.

3. May we still transport status or non-offenders to the law enforcement facility?

Yes. Status offenders may be processed, briefly, in a secure booking area of an adult facility if they are under the officer's continuous visual supervision. However, they must be removed immediately following the booking process and placed into a nonsecure area for interrogation, contacting parents or arranging for alternative placement.

4. If a status or non-offender is placed in a secured area, but the door is not locked, is it still a violation?

Yes. Any area within an adult law enforcement facility that is designated, set aside or used for specific purpose of securely detaining person is considered secure. It is important to designate a nonsecure area for the holding of juveniles within the law enforcement facility.

5. Is possession of a firearm by a juvenile a status offense?

No. Section 922(x) of the U.S.C Title 18 of the Federal Criminal Code prohibits the possession of handgun by a juvenile. A juvenile who violates this statute of a similar law is exempt from this requirement.

6. If a status or non offender is securely detained in an adult jail or lockup, how is this counted as a violation?

It counts both as a violation of the DSO requirement and the Hail Removal requirement.

Sight and Sound (S&S) Separation Requirement

1. How does JJDPa define a Sight and Sound contact?

Sight contact is defined as clear visual contact between incarcerated adults and juvenile within close proximity to each other and the sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders.

2. What is Time-Phasing?

Time Phasing is the use of a common space within an adult jail or lockup for the short term processing and movement of juveniles through the facility. Clear policies and procedures may allow for the removal of all incarcerated adults from a common area prior to the entrance of a juvenile to grantee maintenance of the separation requirement.

3. If a juvenile and adult commit a crime together, do they need to be separated?

Federal regulations do not address the separation in a patrol car; therefore they can be transported together. However, once the juvenile enter the secure law enforcement facility, separation is required.

4. What is a collocated facility?

A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered “related” when it shared physical features such as a wall, fence or other services. A collocated facility must meet the following four criteria in order to assure the requisite separateness of a juvenile detention facility that is collocated within an adult jail or lockup.

- a. Separation between juveniles and incarcerated adult areas.
- b. Separate Juvenile and adult program areas.
- c. Separate staff for the juvenile and the adult populations.
- d. Juvenile facility must meet the state standards for juvenile detention facilities and licensed as appropriate.

5. Does the separation requirement apply to trustees or work release clients?

Yes.

6. Are youth attending a “scared straight” program within an adult facility considered separation violations?

Yes. States must assure that no juvenile offender shall enter under a public authority, for any amount of time, into a secure setting or section of an adult jail, lockup, or correctional facility as a disposition of an offense or as a means of a modifying their behavior.

7. How do the requirements apply to a court holding facility?

A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons pursuant to a court proceeding. Court holding facilities are subject to the separation requirement of the JJDPA.

Jail Removal (JR) Requirement

1. What classifies a facility as a secure jail or lockup?

If a law enforcement facility has the potential to detain persons securely (i.e. cell, locked interview room or a secure cuffing apparatus) it is classified as secure. An adult jail is a facility used to detain adults charged with violating criminal law, pending trial, and convicted offenders sentenced for less than one year. An adult lockup is a facility of a temporary nature which does not hold persons after they have been formally charged.

2. Under what circumstances may a juvenile be securely detained in an adult jail or lockup?

An accused delinquent may be held securely in an adult jail or lockup, sight and sound separated from adults, for up to six hours for the purposes of identification, investigation, processing, release or transfer; or for up to six hours immediately before or after a court appearance.

3. Can a juvenile charged with or sentenced for a traffic, game or fish violation be securely detained in a jail or lockup?

No. A juvenile charged or adjudicated/convicted of a traffic offense, or a civil game and fish violation in any court cannot be detained securely in a jail or in lockup.

4. Can the five hour secure detention in an adult facility before or after a court hearing be combined?

No. A juvenile may only be detained five hours before the court hearing and up to an additional five hours after the court appearance.

5. When does the five hour time clock start and stop?

The five hour clock starts the moment the juvenile is placed into a secure environment. The clock cannot be stopped until the juvenile is permanently removed from the secure setting. The clock does not stop for bathroom breaks, interview, phone calls, etc.

6. When can juveniles be held over the five hour in an adult jail or lockup?

If criminal felony charges have been filed against the juvenile in a court exercising criminal jurisdiction, a juvenile may be held in an adult jail or lockup. The JJDPA does not apply to these juveniles held under a criminal proceeding versus a delinquency proceeding.

For additional questions or comments please contact the OCCF Federal Compliance Monitor:

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