

# GOVERNOR'S CRIME COMMISSION

## JJDP ACT GUIDELINES FOR NORTH CAROLINA SHERIFF OFFICES, POLICE DEPARTMENTS, AND JAILS

**Key Terms used with regards to JJDP Act (Juvenile Justice and Delinquency Prevention Act of 1974, as amended) Compliance:**

<b>JJDP Act</b>	The JJDP Act is a federal law that ties federal funding to a state's compliance with certain restrictions on the detention of juvenile offenders. <b>Compliance with the JJDP Act's detention provisions is not mandatory under North Carolina's laws and detentions may even be ordered which violate the Act's core protections (because of detention length or because of the type of juvenile that is involved). Law enforcement officers and judicial officials are strongly encouraged to voluntarily comply with the Act in situations where they are able to do so.</b>
<b>Secure Hold</b>	A <i>secure hold</i> occurs when a juvenile is placed in a cell, handcuffed to a stationary object, or physically confined in a building or room that is locked to prevent exit from within.
<b>Non-secure Hold</b>	A <i>non-secure hold</i> occurs when a juvenile is not handcuffed to a stationary object and is not locked in a room, placed in a cell, or otherwise within a secure perimeter. <b>If a juvenile is held non-securely, the JJDP Act does not apply and violations of the Act's core protections do not occur.</b>
<b>Secure Facility</b>	A <i>secure facility</i> has construction features or hardware (cells, cuffing posts, lockable interview rooms, etc.) that allow for secure holding.
<b>DSO Core Protection</b>	The JJDP Act's Deinstitutionalization of Status Offenders (DSO) core protection is violated whenever a non-offender, civil-type offender, alien juvenile, or status offender is held securely for any period of time in a jail, sheriff office, or police department.
<b>Jail Removal Core Protection</b>	The Jail Removal core protection is violated whenever a non-offender, civil-type offender, alien juvenile, or status offender is held securely for any period of time in a jail, sheriff office, or police department or when a delinquent is held securely as a disposition or for over six hours (excluding weekends and legal holidays) in a jail, sheriff office, or police department.
<b>Separation Core Protection</b>	The Separation core protection is violated whenever a non-offender, civil-type offender, alien juvenile, status offender, or delinquent who is held securely in a jail, sheriff office, or police department has physical contact or sustained sight- or sound-contact with an adult offender.

Type of Juvenile	JJDP Act Guidelines (these are for detentions in "secure facilities")
<b>Non-offender:</b> a juvenile under age 18 who is subject to juvenile court jurisdiction for reasons of dependency, neglect, or abuse.	<b>Should <u>not</u> be held securely</b> for any period of time; should be sight- and sound-separated from adult offenders at all times.
<b>Alien Juvenile:</b> a non-citizen juvenile under age 18 who is not charged with any offense.	<b>Should <u>not</u> be held securely</b> for any period of time; should be sight- and sound-separated from adult offenders at all times.
<b>Civil-Type Juvenile Offender:</b> a juvenile who is subject to delinquency court jurisdiction for an offense that is civil in nature (e.g., non-criminal traffic or fish & game violations), said offense committed prior to age 16.	<b>Should <u>not</u> be held securely</b> for any period of time; should be sight- and sound-separated from adult offenders at all times.
<b>Undisciplined-Type Status Offender:</b> a juvenile under age 18 who is subject to court jurisdiction for being runaway, truant, ungovernable, or found in places unlawful for a juvenile to be.	<b>Should <u>not</u> be held securely</b> for any period of time; should be sight- and sound-separated from adult offenders at all times.
<b>Delinquent-Type Status Offender:</b> a juvenile who is subject to delinquency court jurisdiction for an offense that would not be a crime if committed by an adult.	<b>Should <u>not</u> be held securely</b> for any period of time; should be sight- and sound-separated from adult offenders at all times.
<b>Delinquent:</b> a juvenile who is accused of (alleged to be delinquent for) or who has been adjudicated delinquent for an offense that would be a crime if committed by an adult, said offense committed prior to age 16.	<b>May be held securely</b> for up to 6 hours prior to and an additional 6 hours following a court appearance; <b>If accused, may be held securely</b> for up to 6 hours for processing, questioning, and/or release to parents/other authorities; <b>If adjudicated, should <u>not</u> be held securely</b> as a disposition or for any reason not related to a court appearance; should be sight- and sound-separated from adult offenders at all times.
<b>Juvenile who has been direct-filed, waived, or transferred to Adult Court:</b> a juvenile under age 16 who has been "bound over" to be tried as an adult in superior court.	<b>The JJDP Act guidelines do not apply to juveniles tried or sentenced in superior court for a felony.</b> If the juvenile is held prior to being "bound over" to superior court, treat as an accused delinquent ( <i>see above</i> ). If convicted in superior court and later charged with a misdemeanor while under age 16, may be held securely for up to 6 hours prior to and an additional 6 hours following a court appearance – separation is not required, though such a juvenile should not be held securely after conviction of a misdemeanor while under age 16.
<b>Criminal Offender:</b> a person age 16 or older who is subject to adult criminal court jurisdiction.	<b>The JJDP Act guidelines do not apply.</b>

**The JJDP Act's core protections ARE NOT VIOLATED in the following scenarios:**

The juvenile is placed in a locked squad car; the juvenile is handcuffed to him/herself outside a secure setting; the juvenile is in a secure booking area for processing purposes and is removed immediately following booking; the juvenile is in an unlocked area that is not a cell.

**NON-SECURE CUSTODY (when ALL are met, the JJDP Act does not apply and violations of the Act's core protections DO NOT occur)**

1. The area where the juvenile is placed is a secure area, used only for processing purposes; AND
2. The juvenile is not physically secured to a cuffing rail or other stationary object; AND
3. The use of the area is limited to providing non-secure custody only long enough and for purposes of identification, investigation, processing, release and/or transfer; AND
4. The area is not designated or intended to be used for residential purposes; AND
5. Continuous visual supervision is provided by an officer or by facility staff.