

Relevant Federal Laws and Regulations Related to Juvenile Detention

Juvenile Justice and Delinquency Prevention	
Code Section	Summary
34 USCS § 11111	<ul style="list-style-type: none"> • Establishing a federal Office of Juvenile Justice and Delinquency Prevention • It is run by an Administrator
34 USCS § 11114	<ul style="list-style-type: none"> • Overview of duties and powers of the Administrator
34 USCS § 11115	<ul style="list-style-type: none"> • Joint funding and non-Federal share requirements that the Administrator can implement
34 USCS § 11116	<ul style="list-style-type: none"> • Creates a Coordinating Council on Juvenile Justice and Delinquency Prevention • This Council coordinates all Federal juvenile detention programs in cooperation with State and local programs.
34 USCS § 11131	<ul style="list-style-type: none"> • Creating a grant program for state and local governments for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency, and programs to improve the juvenile detention system
34 USCS § 11132	<ul style="list-style-type: none"> • Allocation of the funds for § 11131
34 USCS § 11133	<ul style="list-style-type: none"> • In order to receive grants under § 11131, a state must submit a 3-year plan that: • Juveniles shall not have sight or sound contact with adult inmates • Further details requirements for that plan
34 USCS § 11161	<ul style="list-style-type: none"> • The Administrator shall conduct research and evaluations on matters involving juvenile justice. • Mandating that certain studies be run and statistics be gathered from programs receiving funds under this title
34 USCS § 11162	<ul style="list-style-type: none"> • The Administrator shall develop and carry out programs for the purpose of training public and private representatives in the field of juvenile justice. This includes a training program for states on compliance and best practices. • The Administrator shall also develop and implement projects to provide technical assistance to public and private officials in juvenile justice and corrections. • The Administrator shall provide training and technical assistance to mental health professionals. • The Administrator shall train and provide technical assistance to personnel of juvenile detention centers. • The Attorney General and Secretary of Agriculture shall consult with States to understand the price of meals for detained juveniles reimbursed or reduced.
34 USCS § 11171	<ul style="list-style-type: none"> • The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations,

	<p>individuals, or combinations thereof to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency.</p>
34 USCS § 11172	<ul style="list-style-type: none"> • The Administrator shall make grants for technical assistance in the carrying out of the programs receiving grants under § 11171.
34 USCS § 11173	<ul style="list-style-type: none"> • Requirements to be eligible to receive a grant under § 11171.
34 USCS § 11174	<ul style="list-style-type: none"> • Recipients of grants shall submit required reports to the Administrator.
34 USCS § 11182	<ul style="list-style-type: none"> • Authority of the Administrator under this Act • This includes consulting with state and local governments to ensure administration of and compliance with the act.
34 USCS § 11183	<ul style="list-style-type: none"> • Authorizing the Administrator to withhold funds
34 USCS § 11184	<ul style="list-style-type: none"> • Regulations regarding the use of funds received under § 11111
34 USCS § 11185	<ul style="list-style-type: none"> • How the payments under § 11111 are made
34 USCS § 11186	<ul style="list-style-type: none"> • Regarding the confidentiality of juvenile records
34 USCS § 11187	<ul style="list-style-type: none"> • None of the funds allocated under § 11111 may be used to advocate for or support the release of juveniles charged with violent crimes.
34 USCS § 11189	<ul style="list-style-type: none"> • The Administrator may lease surplus federal property to state and local governments for use as juvenile detention centers.
34 USCS § 11190	<ul style="list-style-type: none"> • The Administrator shall issue rules for carrying out their title.
34 USCS § 11322	<ul style="list-style-type: none"> • States that accept funds under § 11111 must ensure full compliance. • Regarding accountability and oversight for programs funded under the act
Prison Rape Elimination Act of 2003	
34 USCS §§ 30301-30309	<p>Purpose:</p> <ul style="list-style-type: none"> • To provide for analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. <p>Led to regulations promulgated regarding this topic (in the regulation section).</p>

OJJDP Grant Programs	
Regulation	Summary
28 CFR § 31.303	<ul style="list-style-type: none"> • Substantive requirements of the Juvenile Justice Act grant program including, but not limited to: <ul style="list-style-type: none"> ○ Separating juveniles from adults ○ Monitoring facilities ○ Reporting requirements
28 CFR § 31.500	<ul style="list-style-type: none"> • Purposes of federal Juvenile Accountability Incentive Block Grants • These grants can be used for building, expanding, renovating, or operating juvenile detention facilities.
Nondiscrimination on the Basis of Disability in State and Local Government Services	
28 CFR Part 35 Appendix A	<ul style="list-style-type: none"> • Guidance document on ADA requirements for detention facilities
Prison Rape Elimination Act National Standards	
28 CFR § 115.311	<ul style="list-style-type: none"> • Requiring a written, zero-tolerance policy towards all forms of sexual assault and sexual harassment • Requiring relevant agencies (including state and local) to have a PREA coordinator • If the agency operates more than one facility, each facility shall have a PREA compliance manager.
28 CFR § 115.312	<ul style="list-style-type: none"> • When an agency contracts with a private entity, adopting and complying with PREA standards shall be a part of the contract.
28 CFR § 115.313	<ul style="list-style-type: none"> • Standards and requirements for supervision and monitoring
28 CFR § 115.315	<ul style="list-style-type: none"> • No cross-gender strip searches or cavity searches • No cross-gender pat downs unless in exigent circumstances • Facilities shall implement policies that allow residents to shower, use the bathroom, and change without being viewed by nonmedical staff of the opposite gender. • No searching a transgender inmate for the purposes of determining their gender. This can be determined through conversation. • Requiring the training of staff to perform these searches (if needed) in a more respectful way.
28 CFR § 115.316	<ul style="list-style-type: none"> • Agencies shall take appropriate steps to ensure that people with disabilities benefit just as much from efforts to limit sexual misconduct in facilities. • The agency shall ensure that these efforts also benefit inmates who are not proficient in the English language.
28 CFR § 115.317	<ul style="list-style-type: none"> • The agency shall not hire someone who has engaged in sexual misconduct in the past if the person's job could involve resident contact. • Requirements for the background checks of employees and potential employees

28 CFR § 115.318	<ul style="list-style-type: none"> • When upgrading facilities and/or technologies, the effect on the ability to monitor and prevent sexual misconduct shall be considered.
28 CFR § 115.321	<ul style="list-style-type: none"> • Requirements for adopting protocol for collecting useable evidence when investigating allegations of sexual abuse. • The agency shall offer all residents who experience sexual abuse access to forensic medical examinations.
28 CFR § 115.322	<ul style="list-style-type: none"> • The agency shall ensure that an administrative or criminal investigation is performed for all allegations of sexual abuse and sexual harassment. • Policies for referring the investigation to entities with the authority to perform criminal investigations
28 CFR § 115.331	<ul style="list-style-type: none"> • Required training for employers on the PREA requirements and methods to reducing sexual abuse and harassment in juvenile detention facilities
28 CFR § 115.332	<ul style="list-style-type: none"> • Required training for volunteers and contractors
28 CFR § 115.333	<ul style="list-style-type: none"> • Requirements for the education of residents of the zero-tolerance policy
28 CFR § 115.334	<ul style="list-style-type: none"> • Specialized training for the agency's investigators
28 CFR § 115.335	<ul style="list-style-type: none"> • Requiring that medical and mental health practitioners are trained in detecting signs of sexual abuse, preserving evidence of sexual abuse, responding effectively and appropriately to victims, and how to report the allegations. • They shall also receive the mandated training under § 115.332.
28 CFR § 115.341	<ul style="list-style-type: none"> • Facilities shall obtain information from residents within 72 hours of their arrival about the resident's personal history and behavior in an effort to reduce the risk of sexual misconduct.
28 CFR § 115.342	<ul style="list-style-type: none"> • The facility shall use the information collected under § 115.341 to make housing, bed, program, education, and work assignments for residents with the goal of keeping residents safe from sexual abuse. • Residents shall be isolated only as a last resort. • LGBT community members shall not be isolated based on that status. Facilities shall not use this status as an indicator for increased risk of sexual misconduct. • Assignments for transgender residents shall be made on a case-by-case basis. Their own views shall be given serious consideration.
28 CFR § 115.351	<ul style="list-style-type: none"> • Resident reporting regulations, including methods that the agency is required to give the residents to report
28 CFR § 115.352	<ul style="list-style-type: none"> • Regulations for the exhaustion of administrative remedies, including timing at each level
28 CFR § 115.353	<ul style="list-style-type: none"> • Residents shall have access to outside support groups • Residents shall have access to legal representation.
28 CFR § 115.354	<ul style="list-style-type: none"> • The agency shall have a method to receive third-party reports of sexual misconduct.

	<ul style="list-style-type: none"> The agency shall publicly distribute information on how to make these reports.
28 CFR § 115.361	<ul style="list-style-type: none"> Regulation regarding the reporting duties of staff and the agency
28 CFR § 115.362	<ul style="list-style-type: none"> The agency has the duty to protect a resident that it learns is subject to substantial risk of imminent sexual abuse.
28 CFR § 115.363	<ul style="list-style-type: none"> When receiving a report that a resident was abused at another facility, the head of the facility shall notify the other facility. This notification shall be given no greater than 72 hours after receiving the allegation. The facility or head of the facility that receives the notification shall ensure that an investigation is done.
28 CFR § 115.364	<ul style="list-style-type: none"> The duties of the first staff member to respond to an alleged sexual abuse
28 CFR § 115.365	<ul style="list-style-type: none"> The facility shall have an institutional plan to coordinate actions in response to an alleged sexual abuse.
28 CFR § 115.366	<ul style="list-style-type: none"> No agency or government responsible for collective bargaining shall enter into an agreement limiting the ability to separate abusers from victims.
28 CFR § 115.367	<ul style="list-style-type: none"> Procedures for protecting residents and staff who report abuse.
28 CFR § 115.368	<ul style="list-style-type: none"> Any use of isolation to protect residents who report abuse shall be subject to the requirements of § 115.342.
28 CFR § 115.371	<ul style="list-style-type: none"> Procedures and requirements for criminal and administrative agency investigations
28 CFR § 115.372	<ul style="list-style-type: none"> The highest standard that can be imposed for determining whether the allegations are substantiated is preponderance of the evidence.
28 CFR § 115.373	<ul style="list-style-type: none"> Following the investigation, the agency shall inform the resident as to whether the allegation has been found to be substantiated, unsubstantiated, or unfounded. Other things of which the facility/agency must inform the resident
28 CFR § 115.376	<ul style="list-style-type: none"> Regulation regarding the disciplining of staff under this section
28 CFR § 115.377	<ul style="list-style-type: none"> Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with residents and reported to law enforcement agencies.
28 CFR § 115.378	<ul style="list-style-type: none"> Regulations regarding interventions and disciplinary actions for residents who engaged in sexual abuse or violated a sexual misconduct policy of the agency
28 CFR § 115.381	<ul style="list-style-type: none"> If screening pursuant to § 115.341 shows that the resident has experienced prior sexual victimization, staff shall ensure a follow-up meeting with a medical or mental health practitioner within 14 days. If it is sexual abuse, staff shall ensure a follow-up meeting with a mental health practitioner within 14 days. Regulation regarding the use/dissemination of this information

28 CFR § 115.382	<ul style="list-style-type: none"> • Resident victims of sexual abuse shall receive access to emergency medical care and crisis intervention services. • Treatment services shall be provided to the victim without cost and regardless of whether the victim names the perpetrator.
28 CFR § 115.383	<ul style="list-style-type: none"> • Requirements for the ongoing medical and mental health care for sexual abuse victims and abusers
28 CFR § 115.386	<ul style="list-style-type: none"> • The facility shall conduct a sexual abuse incident review at the conclusion of any investigation where the allegation was found to be substantiated or unsubstantiated. • Requirements for this sexual abuse incident review
28 CFR § 115.387	<ul style="list-style-type: none"> • The agency shall collect data for every allegation of sexual abuse. • Requirements for the contents of that data
28 CFR § 115.388	<ul style="list-style-type: none"> • The agency shall use the data collected under § 115.387 to take necessary corrective actions.
28 CFR § 115.389	<ul style="list-style-type: none"> • Regulation regarding the secure storage of the data • The agency shall publish the data to the public at least annually. • Personal identifiers shall be removed from the data before publishing. • The data shall be maintained for at least 10 years.
28 CFR § 115.401	<ul style="list-style-type: none"> • The frequency and scope of audits of facilities
28 CFR § 115.402	<ul style="list-style-type: none"> • The necessary qualifications of the people performing the audits • All audits shall be certified by the DOJ.
28 CFR § 115.403	<ul style="list-style-type: none"> • The content of the audit, including whether the facility complies with PREA standards. • The agency shall ensure that the auditor's final report is made available to the public.
28 CFR § 115.404	<ul style="list-style-type: none"> • If an auditor finds that a facility does not meet a standard, the auditor and agency shall work collaboratively on a corrective action plan. • The auditor shall verify the implementation of the corrective action plan.
28 CFR § 115.405	<ul style="list-style-type: none"> • An agency may appeal an audit finding that it believes is incorrect. • If the DOJ determines that the agency has good cause for re-evaluation, the agency may commission a re-audit by a mutually agreed upon auditor. • The findings of the re-audit shall be considered final.