

ERIC R. GREITENS
Governor

CHARLES A. (DREW) JUDEN
Director

GREGGORY J. FAVRE
Deputy Director



Lewis & Clark State Office Bldg.
Mailing Address: P.O. Box 749
Jefferson City, MO 65101-0749
Telephone: 573-751-4905
Fax: 573-751-5399

STATE OF MISSOURI
DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE DIRECTOR

November 21, 2017

This letter is being sent to inform law enforcement agencies of important regulatory changes involving the Juvenile Justice and Delinquency Prevention (JJDP) Act. This Act governs Sight and Sound Separation, Jail Removal, and the Deinstitutionalization of Status Offenders. In January 2017, a Partial Final Rule was promulgated by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and in April 2017, it was approved by the U.S. Department of Justice. Training and technical assistance on the Partial Final Rule was provided to states in September 2017. The following is a summation of the known changes as they impact adult jails and lockups. Some aspects of the Partial Final Rule are still being reviewed and additional changes may be necessary after the full Final Rule is promulgated. Guidance will be provided if/when the federal requirements are amended. **At this time, the following changes should be implemented immediately as they are necessary to ensure Missouri's continued compliance with the JJDP Act.**

The changes resulting from the new regulation principally involve the definition of "Detain or Confine" and where within each law enforcement facility it applies. As defined in the Partial Final Rule it means: "to hold, keep, or restrain a person *such that he is not free to leave*" under 4th Amendment jurisprudence. In essence, the ability to freely egress the facility (secure versus non-secure holding) is no longer the only measure of whether a juvenile meets the definition of "detained and confined". Conversely, within the Partial Final Rule it is also stated that "juveniles who are being held by law enforcement personnel for their own safety [safekeeping], and pending their reunification with a parent or guardian or pending transfer to the custody of a child welfare or social service agency, are not "detained or confined" within the meaning of the JJDP Act." It should be noted that, at this time, it does not appear a juvenile's release to a juvenile officer or transfer to a juvenile justice center will meet the aforementioned exception. This is due to the juvenile officer having the authority to legally detain juveniles and the juvenile justice centers and correctional facilities being secure placements.

(Continued on reverse side)

As noted above, the “where” within a facility a youth is held is significant in determining whether they have been “detained or confined”. Holding a juvenile in a cell (regardless of whether the door is open or unlocked), a locked interview room, securing them to an immovable object, or placing them within any area lacking free egress, are still considered secure holds. However, **interview and multi-purpose rooms that can be locked in such a way as to prevent someone from egressing and rooms with stationary cuffing devices are now considered secure - regardless of how the locks are intended to be used or whether any secure holding devices are utilized.**

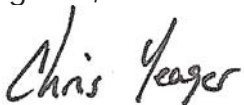
For juveniles accused of delinquent offenses most agencies should see only minimal change from past procedures. When a juvenile accused of a delinquent offense is “detained or confined” within the facility the six (6) hour grace period for his release or transfer will start immediately upon entering the facility and remain in effect until exiting the facility. However, with respect to youth accused of status offenses, the additional restrictions on areas where they can be placed will require special attention. Status offenders held in lockable rooms or rooms with any sort of secure holding devices, are to be considered “detained or confined” and may result in an instances of non-compliance (violations) regardless of whether the door is locked or the secure holding capabilities are utilized. Based on current guidance, status offenders should not enter law enforcement agencies if they cannot be held without implicating “detain or confine” as it is currently defined. We understand the burden this places on agencies with limited space and will work with those affected to develop appropriate alternatives.

Records are still to be maintained for youth held securely or non-securely by law enforcement within adult jails and lockups **EXCEPT** those youth held in a non-secure portion of an adult jail or lockup who meet the “Safekeeping” exception to “Detained or Confined”. For “juveniles who are being held by law enforcement personnel for their own safety [safekeeping], and pending their reunification with a parent or guardian or pending transfer to the custody of a child welfare or social service agency” the juvenile log **does not** need to be completed.

To assist law enforcement agencies with this transition a “Detained or Confined” determination flowchart, revised Juvenile Holding Guidelines poster, and revised Juvenile Log have been attached. The provided guidance materials are provisional until the approval of the Final Rule and/or additional guidance from OJJDP.

Questions may be directed to the Juvenile Justice Unit at the Missouri Department of Public Safety. The Compliance Monitor may be reached at chris.yeager@dps.mo.gov or at 573-526-1931.

Regards,



Chris Yeager
Compliance Monitor
Missouri Department of Public Safety

cc: Connie Berhorst – Juvenile Justice Program Manager