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**MISSOURI LAW ENFORCEMENT**  
**JUVENILE JUSTICE GUIDELINES AND**  
**RECOMMENDED PRACTICES**

February 2019

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**MISSOURI JUVENILE JUSTICE ASSOCIATION**  
Promoting justice for children, youth, and families  
[www.mjja.org](http://www.mjja.org)

# MISSOURI JUVENILE JUSTICE ASSOCIATION



## MISSOURI LAW ENFORCEMENT JUVENILE JUSTICE GUIDELINES AND RECOMMENDED PRACTICES

This manual has been developed with funding provided by the Juvenile Justice Advisory Group, through the Missouri Department of Public Safety and the Office of Juvenile Justice and Delinquency Prevention (OJJDP).



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**The Missouri Law Enforcement Juvenile Justice Guidelines and Recommended Practices**

**Manual** should not be interpreted as legal advice or a substitute for the advice of an attorney.

The information contained herein is general and intended to communicate recommended practices and procedures. It is not intended to be exhaustive or to subvert any supervisory directive, statute, Supreme Court Rule, or local court rule.

Efforts were made to ensure the accuracy of the information contained herein but, as the law is ever changing, attention to statutory and case law updates may be required.

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## Introduction

Missouri law enforcement personnel play a vital role in the juvenile justice process and often open the “doorway” to the juvenile system for a young person alleged to have committed an act of juvenile misbehavior or delinquent conduct. Adolescence is a period in a child’s life where they are progressing toward becoming an adult, but aren’t quite there yet. Adolescent brain development research shows that the brain is not fully developed until age 25 which often causes adolescents to act impulsively and not think about the long-term consequences of their behavior. The Missouri juvenile justice system uses a rehabilitative approach which is effective for most teens and leads to positive outcomes for these youth. When responding to calls involving juveniles, it is important for law enforcement to consider these factors when determining what behaviors/acts warrant the involvement of the juvenile justice system.

As part of their duty to protect and serve, law enforcement personnel also have the weighty responsibility of intervening on behalf of children who have been subjected to abuse or neglect. The ***Missouri Law Enforcement Juvenile Justice Guidelines and Recommended Practices Manual*** is designed to serve as a handbook for law enforcement personnel as they respond to those unique and often complex issues of juvenile justice and child welfare.

The purpose of this manual is to promote an understanding of the differing legal requirements and philosophical tenets that exist between the juvenile and adult court systems while offering practical guidelines and defining best practices to aid law enforcement personnel in the performance of their duties.

The manual is comprised of chapters, each of which includes specific guidance for addressing issues concerning law enforcement contact with juveniles. You will find definitions relating to the topic, references to relevant statutes, rules and case law, and the roles and legal requirements for law enforcement personnel.

While this manual contains valuable information, it is not intended as a substitute for productive working relationships with professional partners. We encourage law enforcement agencies to develop or enhance working relationships with the juvenile justice and child welfare professionals in their jurisdiction. Doing so, we believe, will create the opportunity for ongoing dialogue concerning roles and responsibilities, local protocols, agency discretion, best practices, and updates to statutes, rules and case law which ultimately lead to the best possible outcomes for children and families in our communities.

Nothing in this manual should be construed in a manner to prohibit the use of officer discretion consistent with department policy, and federal and state law.

## **General Definitions**

**Adjudication** – a juvenile court hearing wherein the court determines whether the allegation(s) contained in the petition or motion to modify filed by the juvenile officer are true and correct. See Rule 128.02.

**Adult** – any person seventeen years of age or older. See Section 211.021(1), RSMo.

**Certification** – the process of transferring a child from the jurisdiction of the juvenile court to the court of general jurisdiction (adult court) for prosecution under the general law. See Section 211.071, RSMo.

**Child (status offenses and delinquent offenses)** – any person under seventeen years of age. See Section 211.021.1(2), RSMo.

**Child (child abuse and neglect)** – any person, regardless of physical or mental condition, under eighteen (18) years of age. See Section 210.110(4), RSMo.

**County** – any county of the state and the City of St. Louis. See Rule 110.04(a)(2).

**Court** – the juvenile court, a family court when hearing matters that would be heard in the juvenile court, or a judicial officer within the juvenile court or within the family court when hearing matters that would be heard in the juvenile court. See Rule 110.04(a)(3)

**Custodian** – any person having physical custody of a juvenile in the absence of an order of court. See Rule 110.04(a)(5).

**Detained or Confined** – as defined by the Office of Juvenile Justice and Delinquency Prevention it means to “hold, keep, or restrain a person such that he is not free to leave” under 4<sup>th</sup> Amendment jurisprudence. However, the non-secure holds of 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 JJDP.

**Racial and Ethnic Disparities - RED (previously referred to as DMC)** – the term for the inequitable representation of minority youth in the juvenile justice system. The term includes overrepresentation of youth of color at particular points in the system including arrest, referral to the juvenile court, detention and commitments to the Division of Youth Services as compared to the corresponding percentage in the general population, as well as the disparate and

harsher treatment administered to youth of color at key decision points such as the length of the disposition, the severity of sanctions, and certification.

**Guardian ad litem** – an attorney appointed by the court to represent the best interests of a juvenile in every case involving an abused or neglected child which results in a judicial proceeding. A parent may also be appointed a guardian ad litem upon a determination by the court that the same is necessary. See Section 210.160, RSMo.

**Hearsay** – a statement made by someone other than the person testifying at trial or hearing being offered in evidence to prove the truth of the matter asserted. See BLACK’S LAW DICTIONARY 739 (8<sup>th</sup> ed. 2004).

**Hearsay Exception** – a deviation of the hearsay rule which allows the inadmissible statement into evidence because circumstances surrounding the statement suggest said statement is reliable. See BLACK’S LAW DICTIONARY 739 (8<sup>th</sup> ed. 2004).

**Jail** – the term "jail or other adult detention facility" means any locked facility administered by state, county, or local law enforcement and correctional agencies, a primary purpose of which is to detain adults charged with violating a criminal law pending trial, including facilities of a temporary nature, which do not hold persons after they have been formally charged, or to confine adults convicted of an offense. The term "jail or other adult detention facility" does not include a juvenile detention facility. See 211.151.4(1), RSMo.

**Judicial Custody** – the taking of physical custody of a juvenile by a physician, law enforcement officer or juvenile officer as provided by law, and the retention of physical custody of a juvenile in temporary protective custody, protective custody or detention. See Rule 110.04(a)(10).

**Juvenile** (Status and Delinquent Offenses/Child Abuse and Neglect) – a person under twenty-one (21) years of age who is subject to the jurisdiction of the court. See Rule 110.04(a)(12).

**Juvenile Custody Log** – a record kept of every juvenile brought into a law enforcement facility. For youth who have been “detained or confined” these records must indicate where within the department the juvenile was held and whether this area was secured or securable. Beginning and ending times of secure holds must also be included. See sample log sheet provided in the Appendix.

**Juvenile Delinquency** – the term “juvenile delinquency” generally refers to the commission of an act(s) by a minor child that would be a crime(s) if committed by an adult. See BLACK’S LAW DICTIONARY 428 (6<sup>th</sup> ed. 1990).

**Juvenile Division** – includes the Juvenile Court or Family Court.

**Juvenile Detention Alternatives Initiative (JDAI)** – a site-based effort to reduce the use of detention and increase the use of more effective, community based, intervention.

**Juvenile Detention Assessment (JDTA)** – the Juvenile Detention Assessment, commonly referred to as the “JDTA”, is an objective tool to aid the juvenile officer in decisions relating to the detention of a juvenile. The JDTA is an evidence-based tool, having been tested and validated, and contemplates risk to public safety, the likelihood a juvenile will fail to appear for court, and the appropriateness of alternatives to detention. The juvenile officer is required to complete the JDTA prior to the detention of a juvenile.

**Juvenile Justice Advisory Group (JJAG)** – this group serves as the conduit for federal funding for state and local treatment and prevention services. In addition to serving the specific needs of Missouri, JJAG is available to assist the Governor, as well as the Missouri Department of Public Safety, the state agency designated to meet and maintain compliance with the Juvenile Justice and Delinquency Prevention Act of 1974.

**Juvenile Detention Facility** – a place of temporary care for juveniles in judicial custody in connection with proceedings for delinquent offenses. There are 18 secure juvenile detention facilities in Missouri, administered at the county or regional level by a juvenile and family court. Detention is used as a short-term placement for youth awaiting hearings, primarily youth awaiting adjudication or awaiting placement. See Rule 110.04(7).

**Jurisdiction** – the power and authority of a court to hear and determine a judicial proceeding based on the geographic area in which the court has power and with respect to the subject matter in question. See BLACK’S LAW DICTIONARY 853 (6<sup>th</sup> ed. 1990).

**Juvenile Officer** – includes a deputy juvenile officer and other court personnel the court has authorized to exercise the powers of the juvenile officer. See Rule 110.04(a) (15).

**Juvenile Warrant (also known as a Capias or Pick-Up Order)** – an order of the court to take a juvenile into custody. See Section 211.101.3, RSMo; Section 211.121, RSMo, and Rule 114.01. For warrants issued by the Division of Youth Services see Section 219.026.1(5), RSMo.

**Legal Custody** – the right to the care, custody, and control of a juvenile and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment, and discipline to a juvenile. *See* Rule 110.04(a) (16).

**Legal Guardian** – a person appointed or qualified by a court, or otherwise legally authorized, to have custody of a juvenile. *See* Rule 110.04(a) (9).

**Parent** – any presumed father, natural parent, legal parent or adoptive parent whose parental rights have not been terminated. *See* Rule 110.04(a) (19).

**Probable Cause** – an arrest with or without a warrant requires **probable cause**, which simply means a knowledge of facts and circumstances sufficient for a prudent person to believe the suspect is committing or has committed [an] offense. *State v. Heitman*, 589 S.W.2d 249, 253 (Mo Banc 1979)

**Protective Custody** – the taking and retention of the person of a juvenile in judicial custody in connection with proceedings under subdivision (1) (child abuse or neglect) of subsection 1 of Section 211.031, RSMo. *See* Rule 110.04(a) (25).

**Status Offense** – an act committed by a child that would not be considered a crime if committed by an adult but that may subject the child to juvenile or family court jurisdiction. Those acts include: truancy, beyond parental control, runaway, behavior and associations injurious to the welfare of the child or others, and other acts that are applicable only to children. *See* Section 211.031(2), RSMo.

**Valid Court Order** - an order issued by a court of competent jurisdiction regarding a child who has been brought before said court, which sets forth specific conditions of behavior for the child and consequences of violations of such conditions.

# **Chapter I – The Missouri Juvenile Justice System**

## **Components of the System**

**Law Enforcement** – Law enforcement serves as the primary investigator of any criminal conduct or delinquent behavior by a juvenile. Law enforcement serves as the initial contact and primary investigator of any reported incidents involving juvenile status offenders. Law Enforcement may also investigate, independently or as part of a co-investigation with Children’s Division, allegations of abuse or neglect of children.

**Juvenile Office** – Each of the 46 judicial circuits operates its own juvenile office. Most of the time the head of the office is referred to as the “Juvenile Officer” or “Chief Juvenile Officer”, and the other employees are the “Deputy Juvenile Officers”. However, in some circuits, the person in charge is called the “Chief Deputy Juvenile Officer” or “Juvenile Court Administrator”. Regardless of the title, the Juvenile Officer has the statutory duty to:

- Make such investigations and furnish the court with such information and assistance as the judge may require;
- Keep a written record of such investigations and submit reports thereon to the judge;
- Take charge of children before and after the hearing as may be directed by the court; and,
- Perform such other duties and exercise such powers as the judge of the juvenile court may recommend.

**The Juvenile Officer has the power to take juveniles into custody for supervision violations or violation of a valid court order.**

**Juvenile Court** – “Juvenile Court” means the juvenile division(s) of the circuit court of the county, or judges while hearing juvenile cases assigned to them. (See Section 211.021(3), RSMo.) The juvenile judge is the judge of this court. In larger jurisdictions they also have commissioners or family court judges who have the power to hear and make findings and recommendations in cases or proceedings assigned to them by general or special order of the administrative judge. (See Rule 110.04(14)) The judge or commissioner makes rulings in juvenile/family court in cases over which the juvenile/family court has jurisdiction. See Rule 110.04(a)(1) and Rule 130.05.

**Missouri Children’s Division** – The Missouri Children’s Division is the arm of the Missouri Department of Social Services charged with responding to reports of child abuse and neglect and administering a system of care for children who cannot safely remain at home. The Children’s Division also promotes early childhood and prevention programs in partnership with other key stakeholders.

**Division of Youth Services** – The Division of Youth Services (DYS) is the state agency charged with the care and treatment of delinquent youth committed to its custody by one of Missouri’s 46 juvenile courts. DYS programs are established to provide the mandated services enumerated in Chapter 219.016, RSMo. These services include assessment, care and treatment, and education of all youth committed to its care. Toward this end, DYS operates treatment programs ranging from non-residential day treatment centers through secure residential institutions.

Additionally, DYS administers the Interstate Compact on Juveniles, and operates an accredited school program. DYS is administratively organized into one central office and five regional offices.

**Missouri Department of Mental Health** – Missouri Department of Mental Health’s Division of Behavioral Health (DBH), formerly the Divisions of Alcohol and Drug Abuse and Comprehensive Psychiatric Services, is responsible for assuring the availability of programs and services for individuals and families in need of public behavioral health services and supports throughout the State of Missouri. Community based psychiatric and substance use services are offered statewide to individuals and families through various contracted providers. Community mental health centers and/or affiliates in 25 service areas are contracted to serve as the primary entry and exit point for state mental health services for children, adults and families.

**Missouri Department of Public Safety** – The Crime Victims Services/Juvenile Justice Unit of the Missouri Department of Public Safety is responsible for administering federal grants that help support local juvenile justice and delinquency prevention initiatives. The unit is also responsible for maintaining the states compliance with the Core Requirements of the JJDP act. This includes providing guidance to stakeholders, on-site monitoring of law enforcement facilities, juvenile detention and correctional facilities, and court holding facilities, as well as working to reduce racial and ethnic disparities.

**Missouri Juvenile Justice Association** – The Missouri Juvenile Justice Association (MJJA) is a statewide not-for-profit organization whose mission is dedicated to promoting justice for children, youth, and families within Missouri. The organization provides training, advocacy, and two statewide educational conferences annually.



## Legal Framework

- 1) **Constitution** – The fundamental law of a nation or state which establishes the character and conception of its government. *US and Missouri Constitution.*
- 2) **Statute** – A law enacted and established by the legislature and approved by the governor regarding the substantive rights of citizens.
- 3) **Municipal Ordinance** – A law, rule, or ordinance enacted or adopted by a municipal corporation for the proper conduct of its affairs or the government of its inhabitants. Copies of city ordinances are usually available for review at the city police department, city hall, and local library. See BLACK’S LAW DICTIONARY 1018 (6<sup>TH</sup> ED. 1990)
- 4) **Supreme Court Rules** – Rules created by the Missouri Supreme Court relating to the practice, procedure, and pleadings for all courts, which shall have the force and effect of law. *Missouri Constitution, Article V, Section 5.*  
**Note:** *All references to Rules within this manual are Supreme Court Rules.*
- 5) **Court Operating Rules** – Rules created by the Missouri Supreme Court relating to the operations and programs of all courts in the state.
- 6) **Local Court Rule** – Rule created by a specific court relating to the practice, procedure, and pleadings for that specific court.
- 7) **Case Law** – Judicial interpretation of the constitution, statutes, and rules, as reflected in the written opinion or decision in a particular case.
- 8) **Conflict between rule and statute** – If there is a conflict between a rule and a statute, the rule prevails in matters of procedure, and the statute prevails in matters of substance.

**Note:** State agencies establish their own policies and procedures. These are not enacted by the legislature.

## **Applicable Missouri Juvenile Law**

1) **Chapter 211, RSMo. (Revised Missouri Statutes). The Juvenile Code for the State of Missouri.**

**Purpose of the law** – how construed – “the purpose of this chapter is to facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court. This chapter shall be liberally construed, therefore, to the end that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and to the child’s welfare and the best interests of the state, and that when such child is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which should have been given him by them. The child welfare policy of this state is what is in the best interests of the child.” Section 211.011, RSMo.

2) **Chapter 210, RSMo. Child Protection and Reformation** – the laws relating to child abuse and neglect in the state of Missouri. Chapter 210, RSMO., promulgates the general provisions for child protection, child abuse/neglect law, the provisions of the Interstate Compact on Juveniles, the Uniform Parentage Act, and other miscellaneous issues relating to child welfare and governance of the Missouri Department of Social Services.

**Purpose of the law** – “The department of social services shall address the needs of homeless, dependent and neglected children in the supervision and custody of the children’s division and to their families-in-conflict by: (1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child; (2) Insuring the appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification; (3) Developing and implementing preventive and early intervention social services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

3) **Supreme Court of Missouri – Rules of Practice and Procedures in Juvenile Courts**, Rules 110 through 129.

The Supreme Court Rules govern practice and procedure in the juvenile courts. The Supreme Court Rules are promulgated pursuant to the authority granted to the Supreme Court by section 5 of Article V of the Constitution of Missouri.

4) **The Missouri Criminal Statutes.**

**All statutes can be found by accessing the following link**

Missouri Statutes Online: <http://www.moga.mo.gov/mostatutes/statutesAna.html>

5) **Case Law**

Case law is the aggregate of reported cases that form the law of a particular subject based on court interpretation or application of statutes, regulations, and constitutional provisions. See BLACK'S LAW DICTIONARY 216 (6<sup>th</sup> ed. 1990).

## Comparison between Adult and Juvenile Systems:

There are several fundamental differences between the adult and juvenile justice system-philosophy, terminology used and procedural differences as illustrated below:

Adult System	Juvenile System
<p><b>Philosophy</b></p> <ul style="list-style-type: none"><li>• PUNITIVE</li><li>• Offender Accountability</li><li>• Community Safety</li><li>• Restorative Justice</li></ul>	<p><b>Philosophy</b></p> <ul style="list-style-type: none"><li>• REHABILITATION</li><li>• Offender Accountability</li><li>• Community Safety</li><li>• Restorative Justice</li><li>• Competency Development</li><li>• Evidence Based Services</li></ul>
<p><b>Terminology</b></p> <ul style="list-style-type: none"><li>• Criminal Act</li><li>• Arresting</li><li>• Jail</li><li>• Indictment, Information, Complaint</li><li>• Trial</li><li>• Convicted</li><li>• Sentence</li><li>• Probation</li><li>• Prison Sentence</li><li>• Prosecutor</li><li>• Probation Officers</li></ul>	<p><b>Terminology</b></p> <ul style="list-style-type: none"><li>• Delinquency</li><li>• Taking a juvenile into custody</li><li>• Detention</li><li>• Petition</li><li>• Hearing</li><li>• Adjudication</li><li>• Disposition</li><li>• Supervision</li><li>• Commitment to DYS</li><li>• Counsel for Juvenile Officer</li><li>• Deputy Juvenile Officers</li></ul>
<p><b>Procedure</b></p> <ul style="list-style-type: none"><li>• Rules of Criminal Procedure</li></ul>	<p><b>Procedure</b></p> <ul style="list-style-type: none"><li>• Rules of Criminal Procedure</li><li>• Rules of Practice and Procedure in Juvenile and Family Court</li></ul>

## Classification of a Case

There are six general classifications of cases that a Law Enforcement Officer will encounter in the juvenile system. It is important to determine the classification upon receipt of information to examine the facts and/or allegations presented in the complaint and classify the case as one of the six. The six classifications are:

1. Child abuse and neglect
  2. Status offense
  3. Delinquent offense
  4. Traffic offense
  5. Municipal curfew violation
  6. Tobacco use or possession
- (See Section 211.031.1, RSMo.)

The initial determination as to the classification of a case is critical because there are numerous factors relating to venue, jurisdiction, statutory timelines, and evidentiary standards dictated by the classification of the case.

## Venue

Venue refers to the location where the court action must be held. All juvenile matters must be held in the Juvenile Division of the court system. The location (or county) where those matters must be heard is determined by the venue. Venue requirements differ based on the classification of the case. See Section 211.031.1, RSMo.

VENUE			
TYPE OF CASE	RESIDENCE	WHERE JUVENILE WAS FOUND	WHERE THE OFFENSE WAS COMMITTED
Child Abuse or Neglect	Yes	Yes	No
Status Offense	Yes	Yes	No
Delinquent Offense	Yes	Yes	Yes

### Additional Issues Regarding Venue

**Residence** – A child's residence is the residence of his or her parents if they live together. If not, then it is parent having custody of the child. See *In re R.P.*, 966 S.W.2d 292 (Mo. App. W.D. 1998).

**Physical Presence** – Physical presence in the county is sufficient for the court to exercise jurisdiction, but the juvenile must be physically present in the county at the time of the filing of the petition to contemplate venue under the category of “found”. See In Interest of T.B., 936 S.W.2d 913 (Mo.App.W.D. 1997) and In re Jackson, 592 S.W.2d 320 (Mo. App. S.D. 1979).

## **Jurisdiction**

Jurisdiction is the power and authority of a court to hear and determine a judicial proceeding based on the geographic area in which the court has power and with respect to the subject matter in question. See BLACK’S LAW DICTIONARY 853 (6<sup>th</sup> ed. 1990).

### **Original and Exclusive Jurisdiction**

Jurisdiction is original and exclusive when no other court has the power or authority to hear cases involving a specific subject matter.

The juvenile court has exclusive and original jurisdiction to hear cases of:

- Child Abuse and Neglect
- Status Offenses
- Delinquency
- Adoptions
- Termination of Parental Rights
- Cases for commitment to the guardianship of the Department of Social Services

See Section 211.031, RSMo.; MO. CONST. ARTICLE V, SECTION 14; and *State ex. rel. M.D.K. v. Dolan*, 968 S.W. 2d 740 (Mo.App.E.D. 1998)

## **Exceptions to the Exclusive Jurisdiction of the Juvenile Court**

**Traffic Offenses** – The Juvenile Division does **not** have the authority to act or intervene in cases involving any child fifteen years of age or older who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony offense. See Chapter V for additional information on traffic offenses.

**Note:** Under Section 211.033.1, RSMo, “No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071 shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a juvenile detention facility.” See Chapter V for additional information on traffic offenses.

**Municipal Curfew Violations** – The Juvenile Division shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance. See Section 211.031.1(3), RSMo. (Additional information regarding the local requirements for municipal curfew violations should be obtained from the appropriate representative of the local juvenile court or municipality.)

**Tobacco Possession or Use** – The Juvenile Division shall have concurrent jurisdiction with the circuit court as to any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product. See Section 211.031.1(3), RSMo. (Additional information regarding the local requirements for offenses related to tobacco possession or use by juveniles should be obtained from the appropriate representative of the local juvenile court.)

**Concurrent Jurisdiction** – Jurisdiction exercised by different courts at the same time over the same subject matter and over which either court has the authority to adjudicate the issue. See BLACK’S LAW DICTIONARY 291 (6<sup>TH</sup> ED. 1990)

## Age of the Juvenile

The age of a child is a critical element in determining whether a matter is subject to the jurisdiction of the juvenile court. Generally, the juvenile court may exercise jurisdiction until the child reaches his or her eighteenth birthday for issues of child abuse or neglect and until the juvenile reaches his or her seventeenth birthday for matters involving an allegation of delinquent conduct or a status offense. See Section 211.031.1(1-3), RSMo.

AGE OF THE JUVENILE	
TYPE OF CASE	AGE RANGE SUBJECT TO JUVENILE COURT JURISDICTION [INCLUSIVE]
Abuse/Neglect	[BIRTH ←————→ AGE 17]
Status Offense	[BIRTH ←————→ AGE 16]
Delinquent	[BIRTH ←————→ AGE 16]

The chronological age is the determining factor and “mental age” or “maturity level” is not relevant to this jurisdictional requirement. As to cases involving allegations of **delinquent** conduct pursuant to subsection 3 of Section 211.031, RSMo., **the applicable age would be the age at the time the alleged offense was committed.**

*Example: An investigation reveals that a 25-year old male was involved in the murder of his uncle. The 25- year old would have been approximately 16 and a juvenile at the time of the murder. Moving forward in the investigation the now 25- year old must be treated as a juvenile for the remainder of the investigation. An interview/interrogation of the 25- year old must be done with a juvenile officer present and advising the 25- year of their juvenile rights. At the conclusion of the investigation all reports, etc., would be submitted to the Juvenile Officer and their legal counsel for review.*



## **Continuing Jurisdiction**

The juvenile court may retain jurisdiction of a juvenile until the juvenile attains the age of twenty-one years for cases in which jurisdiction has been acquired, however, any law violations committed by a person seventeen years of age or older, even if the person is subject to the jurisdiction of the juvenile court, must be prosecuted by a court of general jurisdiction.

## **Custody Regulations**

Significant procedural differences exist as to juvenile versus adult offenders in the temporary custodial control of Law Enforcement personnel. Under Federal regulation, tobacco, and curfew violations are considered status offenses. The charts on the following pages delineate the basic limitations relating to custody of juvenile offenders.



# JUVENILE HOLDING GUIDELINES



## Sight and Sound Separation Requirement

Youth detained or confined within adult jails and lockups **shall not** have contact with adult inmates, *including* inmate trustees.

## Deinstitutionalization of Status Offenders (DSO) Requirement

Status offenders, non-offenders, and civil-type offenders **shall not** be detained or confined in secure detention or correctional facilities. Status offenses include: Beyond Parental Control, Runaway, Truancy, Minor in Possession of Tobacco, or other offense applicable only to juveniles.

## Jail Removal Requirement

Juveniles accused of delinquent (non-status) offenses may be securely detained or confined in an adult jail or lockup "for a period not to exceed 6 hours\* for processing or release, or while awaiting transfer to a juvenile facility, and only if such juveniles do not have contact with adult inmates."

**As of October 1, 2017, youth alleged to have committed a Status Offense must be held in a non-secure area, absent ANY secure holding fixtures, and with a path of free egress from the building.**

**Warning:** Youth accused of "Probation Violation", "Violating a Court Order", "Failure to Appear" (if the youth fails to appear for a status offense), or any other offense not specified as delinquent on a pick-up order **MUST** have the underlying offense verified as delinquent **PRIOR** to being held in a secure area. "Felony Absconding While on Parole" should be treated as a **RUNAWAY**.

\*The total of any confinement of a juvenile in law enforcement custody cannot exceed six (6) hours. Drive time to and/or from the facility does not count towards the six hour timeframe.

Note: Records must be kept of every juvenile who is securely or non-securely "detained or confined" in an adult jail or lockup **except** those held solely for "safekeeping" pending reunification with a parent/guardian or pending transfer to the custody of a child welfare or social service agency. Logs must be completed in their entirety and include beginning and ending times and the disposition of the youth. Sample log sheets are available online at: [www.dps.mo.gov/dir/programs/jji/compliance.php](http://www.dps.mo.gov/dir/programs/jji/compliance.php)

Poster provided by:  
Missouri Department of Public Safety, Juvenile Justice Program  
For additional copies contact the Juvenile Justice Compliance Monitor @ (573) 526-1931  
**Revised: April 2018**

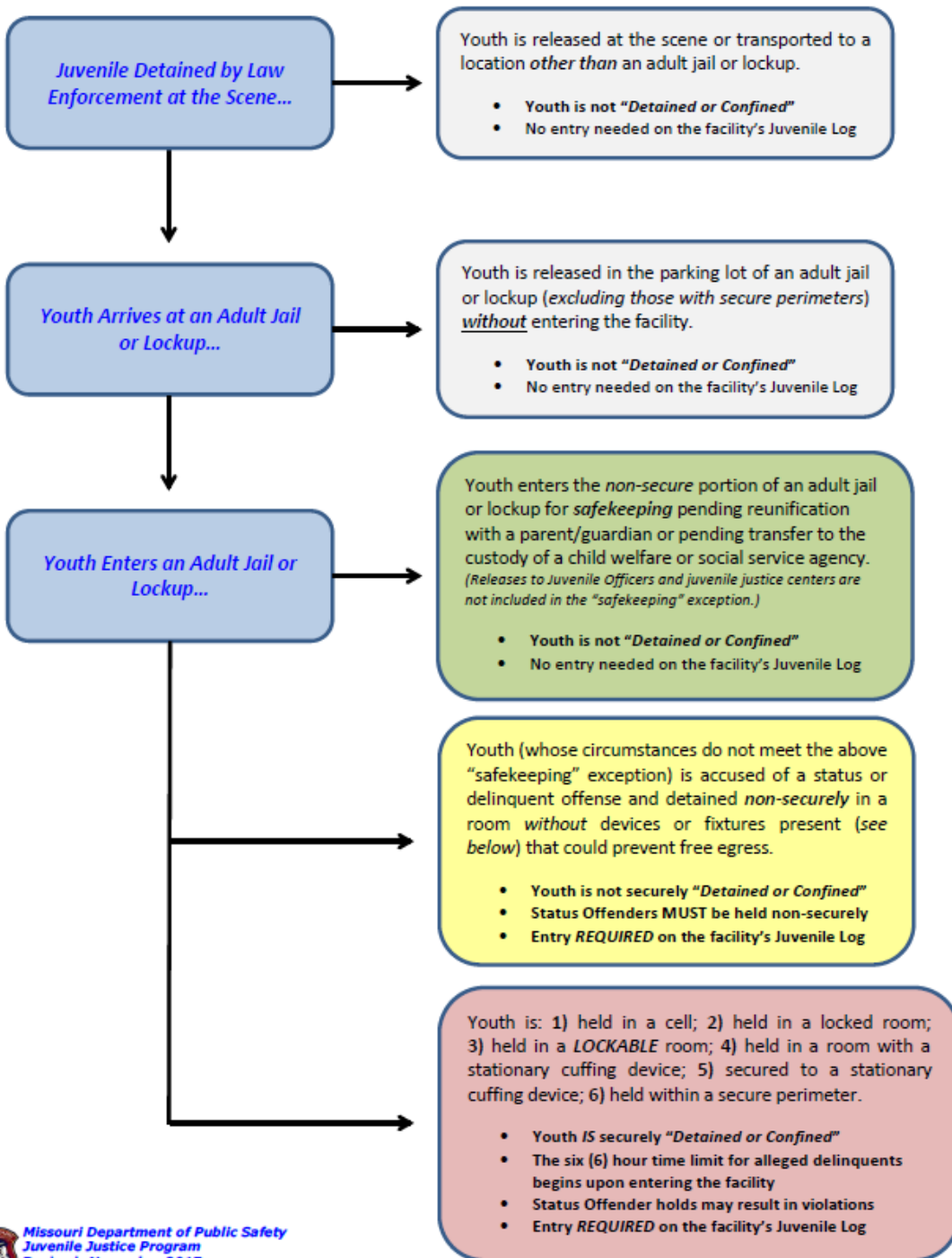
## Custody of Status vs. Delinquent Offenders

Status Offender	Delinquent Offender
<ul style="list-style-type: none"> <li>✓ Do not place in a holding cell (even if the door is left unsecured).</li> <li>✓ Do not cuff to an immovable cuffing fixture (cuffing bench, rail, ring, etc.) <b>OR</b> place the youth in any room with immovable cuffing fixtures.</li> <li>✓ Do not place in a locked room, lockable room, or any area within a secure perimeter.</li> <li>✓ May cuff to a non-stationary object such as an office chair, table, or to themselves.</li> <li>✓ Do not allow sight or sound contact with adult inmates or <b>inmate trustees</b>.</li> <li>✓ Maintain a Juvenile Custody Log (See Note).</li> <li>✓ Continuous visual supervision must be maintained.</li> </ul>	<ul style="list-style-type: none"> <li>✓ May be placed in a holding cell or locked room. *Limited to <b>6</b> hours for the purposes of processing or release or transfer to a juvenile facility.</li> <li>✓ May be cuffed to a stationary object. *Limited to <b>6</b> hours for the purposes of processing or release or transfer to a juvenile facility.</li> <li>✓ May be placed in a locked room or area. *Limited to <b>6</b> hours for the purposes of processing or release or transfer to a juvenile facility.</li> <li>✓ May cuff to a non-stationary object such as an office chair, table, themselves.</li> <li>✓ Do not allow sight or sound contact with adult inmates or <b>inmate trustees</b>.</li> <li>✓ Maintain a Juvenile Custody Log (See Note).</li> <li>✓ Continuous visual supervision must be maintained.</li> </ul>

By authority of:  
Juvenile Justice and Delinquency Prevention Act of 2002  
Section 223(a)(14), JJDPA Act

# Juvenile Holding Guidelines Flowchart

Pursuant to new OJJDP Federal Regulation - Effective October 1, 2017




 Missouri Department of Public Safety  
 Juvenile Justice Program  
 Revised: November 2017

**Custody Log Sheets-** Records must be kept of every juvenile who is securely or non-securely “detained and confined” within an adult jail or lockup **except** those held within a **non-secure** area of the facility solely for “safekeeping” pending reunification with a parent/guardian or pending transfer to the custody of a child welfare or social service agency. (See Juvenile Holding Guidelines Flowchart for further information.)

Logs must be completed in their entirety and include the times in and out of the facility and the disposition of the youth. Sample log sheets are available online at: <https://dps.mo.gov/dir/programs/jj/compliance.php>

The total of any secure confinement of a juvenile in law enforcement custody cannot exceed (six 6) hours and is limited to the purposes of processing or release or transfer to a juvenile facility. Drive time to and/or from the facility does not count towards the six-hour timeframe.

## **Certification or “Dismissal to Allow Prosecution of Juvenile Under General Law As An Adult”**

A juvenile may not be charged with an adult crime or convicted of an offense unless transferred to a court of general jurisdiction or an “adult court”. See Section 211.271.2, RSMo.

### **Certification Process**

#### **Permissive Hearings:**

Juvenile court MAY certify ANY CHILD BETWEEN 12-17 who is alleged to have committed a felony

#### **Mandatory Hearings:**

Juvenile court MUST hold a hearing to determine whether to certify any child, at ANY AGE who is alleged to have committed:

Murder 1st under 565.020 RSMo

Murder 2nd under 565.021 RSMo

Assault 1st under 565.050 RSMo

Forcible Rape (as it existed prior to 8/28/2013) under 566.060 RSMo

Robbery 1st under 569.020 RSMo

Distribution of Drugs under 195.211 RSMo

Juvenile has committed 2 or more prior unrelated felony offenses

**Note:** *When a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the prosecution of the child results in a conviction, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection 10 of this section, for an act that would be a violation of a state law or municipal ordinance. If a petition has been dismissed thereby permitting a child to be prosecuted under the general law and the child is found not guilty by a court of general jurisdiction, the juvenile court shall have jurisdiction over any later offense committed by that child which would be considered a misdemeanor or felony if committed by an adult, subject to the certification provisions of this section.*

In the event a juvenile is certified, but never charged in the adult court, subsequent offenses should be handled in the juvenile court and the juvenile re-certified as may be appropriate. See State v. K.J., 97 S.W.3d 543 (Mo.App.W.D. 2003)

### **Age Misrepresentation**

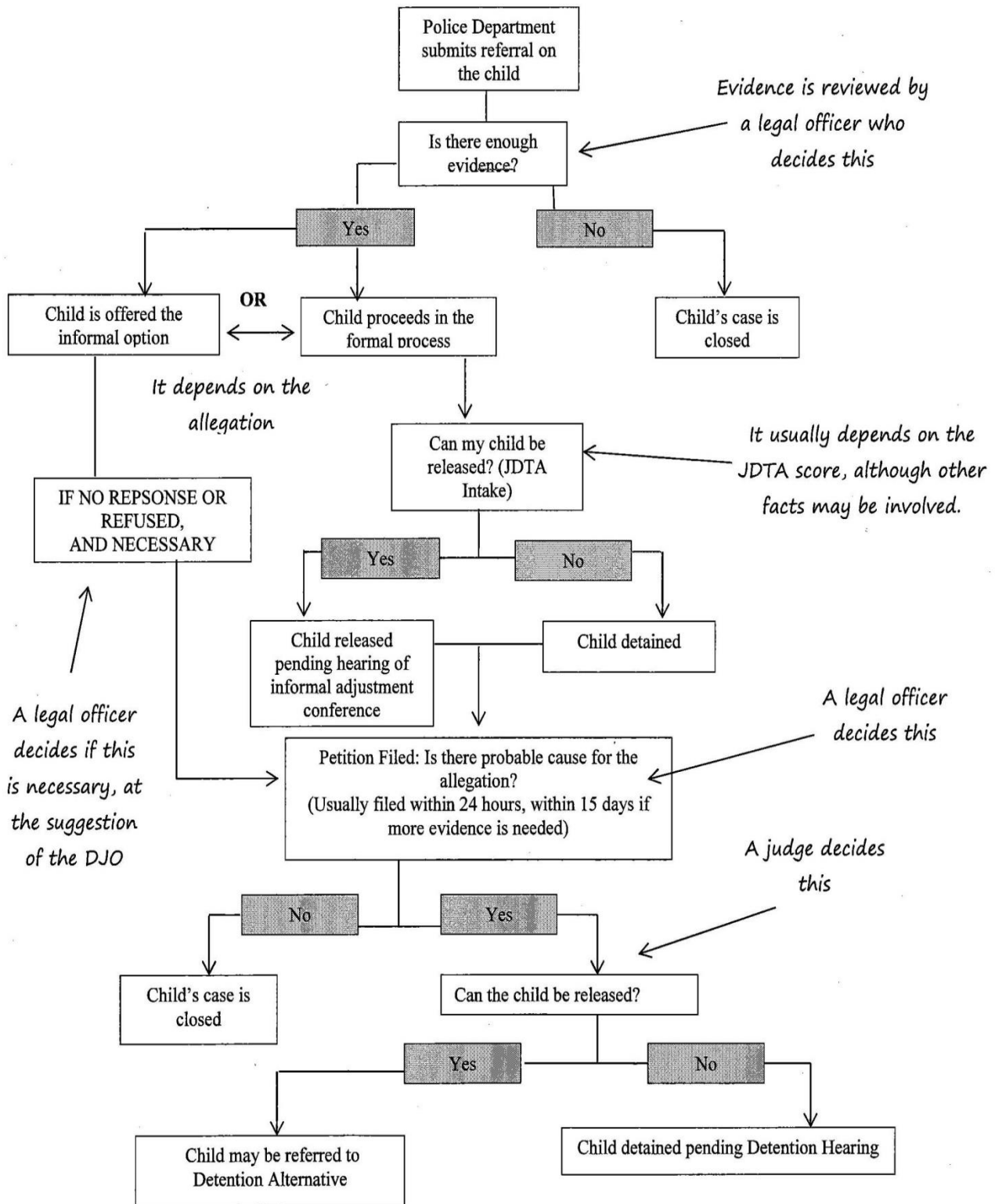
If a juvenile knowingly and willfully misrepresents his/her age, that misrepresentation shall not affect any action or proceeding that occurs based upon the misrepresentation. Any evidence obtained during the period when the juvenile misrepresents his age may be used against the juvenile and will be subject only to rules of evidence applicable in adult proceedings. See Section 211.071.3, RSMo.

Additionally, and provided they are removed immediately from contact with adult inmates upon determining their status as a juvenile, youth held within site or sound of adult inmates while misrepresenting their age will not be counted as violations of the Site and Sound Separation Core Requirement of the JJDP Act. These instances should be reported to the Juvenile Justice Compliance Monitor at the Missouri Department of Public Safety.

### **Dual Jurisdiction**

“The court shall, in a case when the offender is under seventeen years and six months of age and has been transferred to a court of general jurisdiction pursuant to section 211.071, and whose prosecution results in a conviction or a plea of guilty, consider dual jurisdiction of both the criminal and juvenile codes, as set forth in this section. The court is authorized to impose a juvenile disposition under this chapter and simultaneously impose an adult criminal sentence, the execution of which shall be suspended pursuant to the provisions of this section. Successful completion of the juvenile disposition ordered shall be a condition of the suspended adult criminal sentence. The court may order an offender into the custody of the division of youth services pursuant to this section.” See Section 211.073, RSMo.

## WHAT HAPPENS WHEN MY CHILD IS REFERRED TO THE COURTS?



## **Chapter II – Delinquent Offenses Recommended Practices**

### **Purpose**

This Chapter outlines recommended processes regarding juveniles who are alleged to have committed a delinquent act(s) pursuant to 211.031.1(3), RSMo.

### **Authority**

The Juvenile Court has exclusive jurisdiction to adjudicate all matters that involve alleged delinquent conduct by a juvenile.

#### **Missouri Juvenile Code: 211.031.1(3), RSMo.**

“Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the Juvenile Division shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the Juvenile Division shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product.” Section 211.031.1(3), RSMo.

### **Jurisdictional Requirements**

Issues involving the following circumstances and conditions come within the jurisdiction of the Juvenile Division:

- 1) **Age** – The person alleged to have committed the delinquent act is from birth to 17 years of age (not including 17 years of age) or the alleged delinquent act was committed by the person prior to attaining the age of 17 years; See Sections 211.031.1(3) and 211.041, RSMo, **AND**:
- 2) **Residency/Location** – The juvenile resides within the county or circuit in Missouri. (Residency is generally the residence of the parent(s) or custodian and, if the parents do not reside together, the

residence of the person having actual physical custody). See Section 211.031.1(3), RSMo, In the Interest of R.P., 966 S.W. 2d 292 (W.D. Mo.Ct.App. 1998), **OR**:

The juvenile is found within the county or circuit in Missouri [requires physical presence], See Section 211.031.1(3), RSMo, In re Jackson, 592 S.W.2d 320 (S.D. Mo.Ct.App. 1979), **OR**:

The alleged offense committed by the juvenile occurred in the county or circuit in Missouri, See Section 211.031.1(3), RSMo; **AND**:

- 3) **Probable Cause** – An arrest with or without a warrant requires **probable cause**, which simply means a knowledge of facts and circumstances sufficient for a prudent person to believe the suspect is committing or has committed [an] offense. State v. Heitman, 589 S.W.2d 249, 253 (Mo Banc 1979).

## **Exceptions to the Exclusive Jurisdiction of the Juvenile Court**

**Traffic Ordinance or Regulation** – The Juvenile Division does **NOT** have the authority to act or intervene in cases involving any child fifteen years of age or older who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony. See Chapter V for additional information on traffic offenses.

**Note:** Under Section 211.033.1, RSMo, “No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071 shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a juvenile detention facility.” See Chapter V for additional information on traffic offenses.

**Municipal Curfew Violations** – The Juvenile Division shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance. See Section 211.031.1(3), RSMo. (Additional information regarding the local requirements for municipal curfew violations should be obtained from the appropriate representative of the local juvenile court or municipality.)

**Tobacco Possession or Use** – The Juvenile Division shall have concurrent jurisdiction with the circuit court as to any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product. See Section 211.031.1(3), RSMo. (Additional information regarding the local



requirements for offenses related to tobacco possession or use by juveniles should be obtained from the appropriate representative of the local juvenile court.)

**Concurrent Jurisdiction** – jurisdiction exercised by different courts at the same time over the same subject matter and over which either court has the authority to adjudicate the issue. See BLACK’S LAW DICTIONARY 291 (6<sup>TH</sup> ED. 1990)

## **Areas of Responsibility**

### **Law Enforcement**

**Investigations** – Law Enforcement serves as the primary investigator of any criminal conduct or delinquent behavior by a juvenile. A thorough and appropriate law enforcement investigation which establishes probable cause that the juvenile committed an act of delinquency is required prior to any action by the juvenile officer.

**Gathering Evidence and Sufficiency** – Law Enforcement has the responsibility of gathering and maintaining supportive evidence in the course of the investigation of delinquent conduct. Evidence obtained during the investigation should be handled and processed consistent with the legal and procedural requirements of an adult criminal case. The ability to hold juveniles accountable and provide services is contingent upon a legally sufficient, timely, and appropriate investigation and written report.

The burden of proof in a delinquency proceeding before the Juvenile Division is “beyond a reasonable doubt”. The Juvenile Officer is required to prove each element of an offense at the same standard as an adult criminal case. Therefore, to ensure a juvenile is held accountable and provided services, as well as ensuring that the interests of victims and the general public are appropriately served, an investigation of the same level of sufficiency that would be presented to the prosecutor in an adult criminal case is required in each case involving alleged delinquent or unlawful conduct by a juvenile. See In re Winship, 397 U.S. 358 (1970); In re V.F.S., 172 S.W.3d 887 (Mo.App.S.D. 2005).

**Submitting Required Reports** – Written reports, probable cause statements and supporting documentation must be provided to the juvenile officer in the required timeframe to ensure appropriate action in the interest of the juvenile and the state. See Section 211.411, RSMo; See also Rule 127.02(c).

## Juvenile Officer

- 1) **Advisement of Rights** – The Juvenile Officer or a designee trained by the Juvenile Officer shall have the responsibility of advising a juvenile of his/her constitutional rights prior to any in-custody interview or interrogation by law enforcement. *See* Rule 126.01, *See also* Sections 211.059.1(1)
- 2) **Presentation of Juvenile to Juvenile Officer or Detention Facility** – When a juvenile in judicial custody is presented to a juvenile officer, unless the court has ordered the juvenile’s detention, the juvenile officer may release the juvenile or authorize that the juvenile be detained in accordance with Rule 127.07. *See* Rule 127.04.
- 3) **Authorization of Detention** –A juvenile officer may authorize the detention of a juvenile for a period not to exceed 24 hours from the taking of the juvenile into judicial custody under subdivision (2) or (3) of subsection 1 of section 211.031, RSMo. This authorization may be written or oral but, if oral, shall be reduced to writing as soon as practicable. *See* Rule 127.06a.
- 4) **Initiation and Facilitation of Juvenile Division Processes** – The Juvenile Officer or designee will have the responsibility of initiating and facilitating all subsequent Juvenile Division processes upon receipt of completed law enforcement investigation and written reports. *See* Rule 111.01.

## Custody

**Taking a Juvenile into Custody** – A Law Enforcement Officer may take a juvenile into custody pursuant to an order of the court and pursuant to the laws of arrest applicable to adults regarding delinquent offenses. *See* Rule 127.01.

The taking of a juvenile into judicial custody is not an arrest. *See* Rule 127.01(b) and Section 211.131(2).

The jurisdiction of the court attaches from the time the juvenile is taken into judicial custody. *See* Rule 127.01(c) and Section 211.131(3), RSMo.

The order by the court to take a juvenile into custody may be in the form of a “*capias*”, “pick-up order”, “juvenile warrant”, or other written order by the court. Section 211.121, RSMo.

A Law Enforcement Officer may use all necessary means, including reasonable force, in the process of taking a juvenile into custody. See Walsh v. Oehlert, 508 S.W. 2d 222 (Mo. App. E.D. 1974)

### **Procedure for Taking into Custody**

1. **Identifying Information** – Obtain identifying information regarding the juvenile and custodian(s), including but not limited to: full name, social security number, date of birth, address, telephone number, physical description, and the name and address of the parents and/or legal custodian. See Section 211.411, RSMo and Rule 127.02.
2. **Notification of Juvenile Officer** – Immediately notify the Juvenile Officer that the juvenile was taken into custody. See Rule 127.02.
3. **Notification of Parent, Guardian or Custodian** – Make reasonable attempts to notify the juvenile’s parent, guardian or custodian that the juvenile is in custody and request that the custodian respond to the appropriate location as soon as practical. “Reasonable attempts” means those efforts an ordinarily careful, prudent, and diligent person would make under the same or similar circumstances. See Rule 127.02(a) and Section 211.131.2, RSMo.
4. **Written Notification to Juvenile Officer** – In addition to the police report and/or Juvenile Referral Report, prepare a written notification to the Juvenile Officer that the juvenile was taken into custody. The notification must include the above stated information and the basis for taking the juvenile into custody.

**Custody Log Sheets** – Records must be kept of every juvenile who is detained or confined in an adult jail or lockup. These records must indicate if the juvenile was held securely or non-securely. Beginning and ending times of secure holds must also be included. See Sample log sheets provided in the Appendix. Electronic versions are available online at: <https://dps.mo.gov/dir/programs/jj/compliance.php>

5. **Note:** The Supreme Court of Missouri – Rules of Practice and Procedures in Juvenile Division require a “written report” be submitted to the Juvenile Officer any time a juvenile is taken into custody, including circumstances in which a juvenile was taken into custody and subsequently released. This provision was included to ensure that the Juvenile Officer and, through the Juvenile Officer, the Court, is advised of all situations in which a juvenile is taken into custody and released by law enforcement. See Rule 127.02c.

## **Release or Detention**

A statutory presumption exists that the juvenile will be released to the juvenile's parent, guardian or custodian or another suitable person unless detention is authorized by the Juvenile Officer or Court. See Rule 127.02(b) and Section 211.141.1, RSMo.

In accordance with Court Operating Rule 28, the Juvenile Detention Assessment (JDTA) must be utilized to make decisions and/or recommendations regarding whether or not to detain a juvenile. See Appendix for JDTA. The Juvenile Detention Alternatives Initiative provides that a juvenile be detained only if he/she is a danger to the community or if there is a likelihood said juvenile will fail to appear for a subsequent hearing.

As appropriate, alternatives to detention may be considered before placing the juvenile in secure detention.

Detention is not appropriate in circumstances relating to corrective or punitive measures, behaviors associated with a mental illness, or solely for investigative purposes.

### **Procedure for Release or Detention**

- 1) **Release** – In most circumstances, the appropriate course of action will be to release the juvenile to the parent, guardian, custodian or a suitable adult and advise the custodian or suitable adult accepting custody that a written report will be forwarded to the Juvenile Officer. The Juvenile Officer will make contact upon receipt of the written report and initiate further proceedings as may be appropriate. The person to whom a juvenile is released may be required to sign a written promise to produce the juvenile when required by the court. See Rule 127.02(f) and Section 211.141, RSMo.

**Documentation** – The Police Report/Juvenile Referral Report and the “Notification that the Juvenile was Taken into Custody and Released” should be completed and delivered to the juvenile officer as soon as practical by the law enforcement officer so a case may be initiated as may be appropriate.

- 2) **Detention** – If a juvenile is not released in accordance with Rule 127.02b, the law enforcement officer taking the juvenile into judicial custody shall submit to the juvenile officer as soon as practicable, but no later than 12 hours after taking the juvenile into judicial custody, a written report identifying the juvenile and stating the facts and circumstances that caused the law enforcement officer to believe the juvenile was subject to the jurisdiction of the court under subdivision (2) or (3) of subsection 1 of section 211.031, RSMo, and the reasons the juvenile was placed in judicial custody and not released. If the

juvenile is not released and detention is ordered or authorized, the juvenile shall immediately be taken to a detention facility designated by the court order pursuant to Rule 127.03. Cross Reference Sections 211.131 and 211.141 RSMO

**Documentation** –Rule 127.02c requires a written report, rather than mere notification, to the juvenile officer. This written report provides the juvenile officer with a documentary basis for deciding whether to release the juvenile or hold the juvenile in judicial custody. Cross-reference: Sections 211.131 and 211.141, RSMo.

**Note:** A juvenile may be detained only in a detention facility as specified by the court and may not be detained in any jail or other adult detention facility. *See* Rule 127.03 and Section 211.151, RSMo.

The juvenile officer or designee has the authority to authorize the detention of a juvenile for a period not to exceed twenty-four hours. *See* Rule 127.06(a).

The **Court must authorize** continued detention for a period of more than twenty-four hours and is required to make a finding that probable cause exists that the juvenile committed acts specified in the petition or motion that brings the juvenile within the jurisdiction of the juvenile division. *See* Rule 127.06(b).

## **Procedures for When A Juvenile Is in Custody**

**Right to Be Taken Before the Court** – Upon being taken into custody, a juvenile shall be taken immediately before the juvenile court or delivered to the juvenile officer. *See* Section 211.061, RSMo 1994.

**Sight and Sound Separation** – Juveniles in law enforcement custody must be separated by sight and sound from any adult inmates and arrestees at all times.

**Searches** – Juveniles should be searched for weapons and illegal contraband upon being placed in custody. Searches should be conducted in the most discreet manner possible and, when possible, Law Enforcement Officers of the same sex as the juvenile should conduct the search.

**Handcuffing** – Juveniles may be handcuffed as needed to ensure the safety of all parties, including the juvenile. See Custody Log <https://dps.mo.gov/dir/programs/jj/compliance.php>

**Supervision** – Juveniles in law enforcement custody should not be left unsupervised and constant visual supervision should be maintained at all times.

## **Fingerprints/Photographs**

Pursuant to Section 211.151, RSMo, law enforcement officers shall fingerprint and photograph any juvenile taken into custody for offenses that would constitute a felony if committed by an adult. This is a statutory requirement and consent by the juvenile court is not required. For misdemeanors, a juvenile’s fingerprints and photographs may be obtained only with the consent of the court.

Your local police department should have on hand “**Juvenile Fingerprint Cards**”, or cards can be obtained by contacting:

Missouri State Highway Patrol  
Criminal Records and Identification Division  
PO Box 9500  
Jefferson City, Missouri 65102  
573-526-6144

Check with your local department concerning the process for fingerprinting and photographing.

The juvenile’s fingerprints and photographs should be forwarded to the juvenile office, which will send the fingerprints to the Missouri State Highway Patrol and maintain custody of the photograph.

**Note:** This statute does not apply to the photographing of injuries to a juvenile victim. Follow the protocol of your local department concerning the process for photographing injuries of a victim.

## **Records**

Peace Officers’ records, if any are kept, of children shall be kept separate from the records of persons seventeen years of age or over and shall not be open to inspection or their contents disclosed, except by order of the court. See Section 211.321 RSMo

## **Interviews and Interrogations**

Any juvenile taken into custody in connection with an investigation of a delinquent offense must be afforded all rights to which he/she would be entitled if he/she were an adult, including full advice as to constitutional rights in compliance with the *Miranda* decision and additional statutory requirements.

Rule 126.01 provides that, before an in-custody interview or interrogation begins, a juvenile must be advised by the Juvenile Officer, or by a designee trained by the Juvenile Officer, of each of the following rights as set forth in 211.059:

- 1) That the child has the right to remain silent;
- 2) That any statement the child does make to anyone can be and may be used against the child in subsequent juvenile court proceedings.
- 3) That the child has a right to have a parent, guardian or custodian present during questioning, and that any statement made to the juvenile officer or court personnel may be used in later juvenile division proceedings;
- 4) That the child has a right to consult with an attorney and that one will be appointed and paid for if they cannot afford one;
- 5) That the child has the right to stop talking at any time; and
- 6) That any statement the child does make to law enforcement can be and may be used against the child if the child is transferred to a court of general jurisdiction to be prosecuted under the general law.

The juvenile officer shall halt or discontinue any questioning by law enforcement upon notice from the child that the child wishes to stop being questioned. (Note: The Juvenile Officer Performance Standards state the juvenile officer or designee shall prohibit or end questioning by law enforcement wherein the juvenile appears to lack the capacity to understand the advisement of rights and waiver, request the questioning to stop, or requests legal counsel).

The juvenile officer shall ensure a child is advised of the limited role of the juvenile officer during questioning by law enforcement and specifically advise the child that the juvenile officer is not legal counsel for the child or an advocate for the child during questioning by law enforcement.

The juvenile officer shall not participate in the questioning by law enforcement by asking any questions or soliciting any information from the child regarding the alleged offense or offenses. Participation by the Juvenile Officer or designee is not permitted by statute and is a conflict of interest. Courts have deemed participation by the juvenile officer or designee may impact the admissibility of a statement or evidence in subsequent proceedings. See State v. Tolliver, 561 S.W. 2d 407 (Mo. App. 1977).

**Note:** Questioning/Solicitation/Clarification: includes, but is not limited to asking the juvenile questions directly, soliciting information from the juvenile or through law enforcement by asking law enforcement to question the juvenile or clarifying any information stated by the juvenile during the questioning by law enforcement.

**Note:** The juvenile officer or a designee trained by the juvenile officer must advise the juvenile of his/her rights prior to any in-custody interview or interrogation by law enforcement. See Rule 126.01, See also Section 211.059.1(1)-(4) RSMo.

**Note:** The juvenile officer must demonstrate due diligence in the designation of other agency personnel to perform the advisement of rights to a juvenile. The intended protective capacity of the role of the juvenile officer must be maintained and specific training as to the role of the juvenile officer in the rights advisement, developmental consideration and recognizing the capacity of the juvenile to understand the rights advisement, the process for requests for legal counsel by the juvenile, the role of the parent or a “friendly adult” on behalf of the juvenile, and the appropriate circumstances and limitations for interrogations by law enforcement.

The admissibility of any juvenile statement is determined from the totality of circumstances on a case-by-case basis. The court will evaluate the juvenile’s age, experience, education, background, intelligence, and whether the juvenile has the capacity to understand the warnings given to him, the nature of the Fifth Amendment of the United States Constitution rights, and the consequences of waiving those rights. See In the Interest of A.D.R., 603 S.W. 2d 575(Mo. 1980)

**Note:** The best practice is for the Juvenile Officer to read the rights enumerated in the statute and Rule to the juvenile, parent, custodian, or “friendly” adult and have them indicate understanding and sign a waiver form. **State v. Jones, 699 S.W.2d 525 (Mo.App. E.D. 1985).**



A juvenile should be considered “in custody” at a point in time at which a reasonable juvenile would believe he or she is not free to leave the encounter with law enforcement. The standard is more restrictive than for the adult standard.

Because these measures protect the individual against the coercive nature of custodial interrogation, they are required “ ‘only where there has been such a restriction on a person’s freedom as to render him “in custody.” ’ ” *J.D.B. v. North Carolina*, 564 W.S. 261, 131 S.Ct. 2394, 180 L.Ed.2d 310 (2011) (quoting *Stansbury v. California*, 511 U.S. 318, 322, 114 S.Ct. 1526, 128 L.Ed.2d 293 (1994) (per curiam) (quoting *Oregon v. Mathiason*, 429 U.S. 492, 495, 97 S.Ct. 711, 50 L.Ed.2d 714 (1977) (per curiam) ).

The court has repeatedly emphasized that the determination as to whether a suspect is “in custody” is an objective inquiry, based on a totality of the circumstances as to whether a reasonable person in the juvenile’s situation would believe that they are free to leave and end the encounter with law enforcement. Courts have taken the position that it is less likely that a juvenile would feel free to leave a situation than an adult in the same or similar situation. *J.D.B. v. North Carolina*, 564 W.S. 261, 131 S.Ct. 2394, 180 L.Ed.2d 310 (2011)

### **Recommendations for Interviews and Interrogations**

Contact the juvenile office to schedule the interview/interrogations. The Juvenile Officer will request the identifying information regarding the juvenile, the name and address of the parent, guardian or custodian, information as to the nature of the offense, and the basis for the request to interview /interrogation the juvenile suspect.

Contact the parent, guardian or custodian and direct them to respond to the appropriate location and to bring the juvenile, if the juvenile is not in custody.

The juvenile officer or designee will inform the juvenile of his or her rights and review the Juvenile Rights Waiver form and each element of same said waiver with the juvenile. The juvenile officer or designee should ensure the juvenile and parent(s) understand the rights and information contained in the Juvenile Rights Waiver.

### **General Conditions for Interviews and Interrogations**

- The atmosphere should be non-intimidating to the juvenile. Weapons should not be visible and no more than two law enforcement officers should be present at the time of the interview/interrogations.
- The interview/interrogations should be for a reasonable length of time and include a break and/or rest periods if the interview is of a substantial time period.
- A juvenile should only be questioned in circumstances in which the interview/interrogation is necessary to further the investigative process and those offenses of a serious nature (felony offenses).
- If the juvenile is represented by an attorney or guardian ad litem, no person may interview or interrogate a juvenile unless the attorney or guardian ad litem is present or has consented to the interview/interrogation.

At the conclusion of the interview/interrogation, the Juvenile Officer or designee will make a photocopy of the Juvenile Rights Waiver and provide the original Juvenile Rights Waiver form to the law enforcement officer. This original form should be included as part of the juvenile referral report/police report.

## Juvenile Referral Report/Police Report

Following an investigation, a Juvenile Referral Report/Police Report shall be completed and submitted to the juvenile officer regarding any complaint in which the officer believes probable cause and evidence exists that the juvenile committed the acts which would be a crime if committed by an adult. The report shall contain the following information as may be available:

- 1) **Identifying information regarding the juvenile suspect** – full name, social security number, sex, race, ethnicity, age, date of birth, address, telephone number, school, nicknames or alias, a physical description, and indicators of any significant physical or mental health issues.
- 2) **Information regarding parent, guardian or custodian** – Identifying information regarding the juvenile’s parent, guardian or custodian.
- 3) **Reason for the referral** must be consistent with statutory offenses and identify the offense type and classification.

Examples:

- a. Robbery in the First Degree (Section 570.023, RSMo.) Class A Felony
- b. Stealing (Section 570.030, RSMo.) Misdemeanor/Felony

**NOT:**

- a. Juvenile Misbehavior
- b. Drug Use or Drug Offenses
- c. Juvenile Mischief
- d. Delinquency
- e. Threats

- 4) **Date and time the alleged offense occurred.**
- 5) **Location the alleged offense occurred.**
- 6) **Witnesses** – The name and address of the witness(s) to the alleged offense.
- 7) **Complainant or Victim** – The name and address of the complainant or alleged victim.
- 8) **Date and Time contact with the juvenile’s parent/guardian, custodian** was initiated.
- 9) **Report Number** – The agency report number.
- 10) **Narrative:**
  - outlines investigative processes and outcomes in support of the reason for referral;
  - establishes the elements of the offense as defined in Missouri Statutes;

- identifies evidence collected in the course of the investigation and the maintenance of the same; and
- a Probable Cause Statement or Statement attesting the facts of the information contained in the report are true and correct to the best of the officer's knowledge and beliefs.

11) **Copies of all statements, documents or photographs** obtained in the course of the investigation.

In addition to the necessity of including the aforesaid information in the Juvenile Referral Report/Police Report, it is also critical to ensure the referral is forwarded to the juvenile officer to facilitate efficient and effective action by the juvenile officer. The police report should be sent at the earliest possible date to ensure prompt action by the juvenile officer.

## Chapter III – Status Offenses

### Purpose

Issues relating to status offenders or those children demonstrating behaviors that may be characterized as unruly, disobedient, and unmanageable by those charged with the care, custody, and control of the child remain problematic for the juvenile justice system.

Those children are not appropriately served by the same range of services and sanctions provided to the more serious delinquent offenders. Many state and nongovernmental youth serving agencies advocate for removal of status offenders from the jurisdiction of the Juvenile Division. Some jurisdictions within the state of Missouri have adopted that stance. Others continue to serve status offenders as a matter of regular practice and procedure in the juvenile and family court process.

Protocols and procedures vary significantly between jurisdictions when serving the status offender population. The best practice protocol is to establish a dialogue with the juvenile officer and the youth serving agencies within your jurisdiction and learn what services are available for status offenders.

The following is a general overview of issues and requirements regarding children who are alleged to have committed a status offense pursuant to Section 211.031.1(2), RSMo.

### Authority

**Missouri Juvenile Code: Section 211.031.1(2), RSMo.** – Involving any child who may be a resident of the county or is found within the county and who is alleged to be in need of care and treatment because:

- (a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or,
- (b) The child disobeys the reasonable and lawful directions of his or her parents or custodian and is beyond their control; or,
- (c) The child is habitually absent from his or her home without sufficient cause, justification, or permission; or,
- (d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or,
- (e) Other offenses applicable to children only, including curfew violations and minor in possession.

## Jurisdictional Requirements

Issues involving the following circumstances and conditions come within the jurisdiction of the Juvenile Division:

- 1) **Age** – The person alleged to have committed the status offense is from birth to seventeen years of age (not including seventeen years of age); AND:
- 2) **Residency/Location** – The juvenile resides within the county or circuit in Missouri. (Residency is generally the residence of the parent(s) or custodian and, if the parents do not reside together, the residence of the person having actual physical custody). *See* Section 211.031.1(3) RSMo, In the Interest of R.P., 966 S.W. 2d 292 (W.D. Mo.Ct.App. 1998), OR:  
  
The juvenile is found within the county or circuit in Missouri [requires physical presence], *See* Section 211.031.1(3) RSMo, In re Jackson, 592 S.W.2d 320 (S.D. Mo.Ct.App. 1979), AND:
- 3) **Probable Cause** – Probable cause exists that the juvenile committed an act classified as a status offense.

## Status Offenses and Best Practice

### Beyond Parental Control

Common examples of this offense include a juvenile who is verbally abusive to the parent or custodian, a juvenile who refuses to follow parental directives regarding assigned tasks or chores, or a juvenile who fails to abide by household rules such as what time to return home or leaves without parental permission.

In most circumstances, the best practice is to de-escalate the situation, request the parent(s) provide a written statement as to the juvenile's failure to obey reasonable and lawful directions and forward a Juvenile Referral Report to the juvenile officer by the next business day.

Alternative dispositions may be required in the event the parent refuses to allow the juvenile to remain in the home or the situation cannot be de-escalated.

**Alternative dispositions** may include:

- A) **Voluntary temporary alternative care** – The parent(s) may voluntarily place their child in the home of a relative or other suitable adult as needed. In the event a parent chooses to do this, all information regarding the placement provider (name, address, and telephone number) should be documented in the Juvenile Referral Report and submitted to the juvenile officer.
- B) **Voluntary emergency mental health services** – The parent may voluntarily obtain emergency mental health services for the child.
- C) **Temporary Protective Custody** – If the circumstances are such that safety of the juvenile cannot be assured or the parents refuse to allow the juvenile to remain in the family home, the juvenile can be placed in temporary protective custody. The law enforcement officer should immediately report the issue to the Child Abuse and Neglect Hotline at 1-800-392-3738 and then contact the juvenile officer.

### **Runaway**

In most circumstances, the usual practice and procedure relating to juvenile runaways will include releasing the juvenile to the parent or custodian and submitting a Juvenile Referral Report to the juvenile officer.

Alternative dispositions may be required in the event the parent refuses to allow the juvenile to remain in the home or reasonable cause exists to believe that the juvenile will leave home again without permission before the juvenile and parent can meet with a juvenile officer.

For out-of-state runaways, see Interstate Compact in Chapter V.

**Alternative dispositions** may include:

- A) **Voluntary temporary alternative care** – The parent(s) may voluntarily place their child in the home of a relative or other suitable adult as needed. In the event a parent chooses to do this, all information regarding the placement provider (name, address, and telephone number) should be documented in the Juvenile Referral Report and submitted to the juvenile officer.
- B) **Temporary Protective Custody** – If the circumstances are such that safety of the juvenile cannot be assured or the parents refuse to allow the juvenile to remain in the family home, the juvenile can be placed in temporary protective custody.

## **Behavior and Associations Injurious to Self or Others**

This is a very broad category in which many circumstances of juvenile misconduct or behavior may be appropriate. The most common occurrences include: self-mutilation, suicidal behavior, consensual sexual activities among peers, associating with adult felons or negative influences, and issues relating to curfew violations.

In most circumstances, the usual practice and procedure relating to Behavior and Associations Injurious to Self or Others will include notifying the parent of the situation, releasing the juvenile to the parent or custodian, and submitting a Juvenile Referral Report to the juvenile officer.

A juvenile should not be held in a secure detention facility for issues relating to behavior and associations injurious to self or others. The juvenile's parent(s) or custodian should be given assistance in responding appropriately to the issues of concern.

**Alternative dispositions** may include:

- A) **Voluntary temporary alternative care** – The parent(s) may voluntarily place their child in the home of a relative or other suitable adult as needed. In the event a parent chooses to do this, all information regarding the placement provider (name, address, and telephone number) should be documented in the Juvenile Referral Report and submitted to the Juvenile Officer.
- B) **Voluntary emergency mental health services** – The parent may voluntarily obtain emergency mental health services for the child.
- C) **Temporary Protective Custody** – If the circumstances are such that safety of the juvenile cannot be assured or the parents refuse to allow the juvenile to remain in the family home, the juvenile can be placed in temporary protective custody.

## **Truancy**

Issues related to truancy should be referred to the juvenile officer.

Juveniles who are truant may be returned to school or released to their parent, guardian, or custodian; and a Juvenile Referral Report must be forwarded to the Juvenile Officer as soon as practicable by the appropriate school or law enforcement agency.



### **Other Status Offenses under the federal Juvenile Justice and Delinquency Prevention (OJJDP) Act:**

Warning: Youth accused of “Probation Violation”, “Violating a Court Order”, “Failure to Appear” (if the youth fails to appear for a status offense), or any other offense not specified as delinquent on a pick-up order MUST have the underlying offense verified as delinquent PRIOR to being held in a secure area. “Felony Absconding While on Parole” should be treated as a RUNAWAY.

Law Enforcement officers should make all attempts to treat these as status offenses when no additional **current** offenses are known. If you need further information, please refer to JJDP Act.

### **Minor in Possession of tobacco:**

Juveniles accused or adjudicated for Minor in Possession of Tobacco should not be securely detained in a juvenile detention center, juvenile correctional facility, or an adult jail or lockup.

See Chapter VI for additional information on the JJDP Act.

## **Areas of Responsibility**

### **Law Enforcement**

1. **Investigations and Initial Contact** – Law enforcement serves as the initial contact and primary investigator of any reported incidents involving juvenile status offenders. A thorough and appropriate law enforcement investigation which establishes probable cause that the juvenile committed the status offense(s) alleged is required prior to any action by the juvenile court.
2. **Written Report** – Juveniles in need of care and treatment regarding inappropriate behavior and conduct relating to status offenses will be held accountable for their actions and provided appropriate services, but the ability to hold juveniles accountable and provide services is contingent upon a legally sufficient, timely and appropriate investigation and written report.

### **Juvenile Officer**

The Juvenile Officer or designee will have the responsibility of initiating and facilitating all subsequent Juvenile Division processes upon receipt of the completed law enforcement investigation and written reports.

## **Custody**

A law enforcement officer may take a juvenile into custody pursuant to an order of the court and pursuant to applicable laws.

The taking of a juvenile into judicial custody is not an arrest. *See* Rule 127.01(b) and Section 211.131(2), RSMo.

The jurisdiction of the court attaches from the time the juvenile is taken into judicial custody. *See* Rule 127.01(c) and Section 211.131(3), RSMo.

The order by the court to take a juvenile into custody may be in the form of a “*capias*”, “pick-up order”, juvenile warrant”, or other written order of by the court. *See* Section 211.101.3, RSMo; Section 211.121, RSMo. *See* Chapter V for additional information on juvenile warrants.

### **Procedure for Taking into Custody**

1. **Identifying Information** – Obtain identifying information regarding the juvenile and parent, guardian or custodian(s). Required information includes: full name, social security number, date of birth, address, telephone number, physical description, and the name and address of the parent(s) guardian, and/or legal custodian(s).
2. **Notification of Parent, Guardian or Custodian** – Notify the juvenile’s custodian(s) the juvenile is in custody and request immediate presence at the appropriate location.
3. **Notification of Juvenile Officer**– Notify the juvenile officer that the juvenile is in custody and fulfill the statutory reporting requirement by reporting the above-stated identifying information, as well as the reason for taking the juvenile into custody.
4. **Custody Log Sheets** – Records must be kept of every juvenile who is securely or non-securely “detained or confined” within an adult jail or lockup or except those held within a non-secure area of the facility solely for “safekeeping” pending reunification with a parent/guardian or pending transfer to the custody of child welfare or social service agency. (See Juvenile Holding Guideline Flowchart for further Information).

5. **Follow custody procedure guidelines for status offenders as outlined on pages 18-19, Chapter One.**

## **Issues Relating to Custody**

**Sight and Sound Separation** – Juveniles in law enforcement custody must be separated by sight and sound from any adult inmates and arrestees at all times.

**Searches** – Juveniles may be subjected to a pat down search for weapons and illegal contraband upon being placed in custody. Pat down searches should be conducted in the most discreet manner possible and, when possible, law enforcement officers of the same sex as the juvenile should conduct the search.

**Handcuffing** – Juveniles should not be handcuffed or otherwise restrained as a matter of general practice and only in circumstances in which the juvenile is combative or an immediate threat to himself, herself, or others.

**Juvenile status offenders may NOT be handcuffed to immovable objects.** (See Custody of Status vs. Delinquent Offenders, pages 18-19, Chapter One)

**Placement within Jails and Lockups-** Status offenders, if brought to a law enforcement facility, MUST be held in a non-secure area with a permanent path of free egress. Status offenders held in lockable rooms or rooms with secure holding devices, are to be considered “detained or confined” and may result in an instance of non-compliance (violations) regardless of whether the door is locked or the secure holding capabilities are utilized. Status offenders should not enter law enforcement facilities if “detained or confined” is implicated.

**Supervision** – Juveniles in law enforcement custody should not be left unsupervised and constant visual supervision should be maintained at all times.

## **Processing a Status Offender**

**Release** – In most circumstances, the appropriate course of action will be to release the juvenile to the custodian or a suitable adult and advise the custodian(s) or suitable adult(s) accepting custody that a Juvenile Referral Report will be forwarded to the juvenile center and the parents or custodian(s) will be contacted upon receipt of the Juvenile Referral Report for further proceedings in the Juvenile Division.

**Detention of Status Offenders** – Status offenders may not be detained in a secure juvenile detention facility as a matter of general practice and procedure. A statutory presumption exists that the juvenile will be released to the juvenile’s custodian(s) or other suitable person(s) as soon as practical unless detention is and appropriately authorized by the juvenile court.

## **Protective Custody**

**Required Documentation** – In the event the juvenile was released to the custodian or suitable adult, a Juvenile Referral Report should be completed and delivered to the juvenile court as soon as practical but not later than five (5) days following the release of the juvenile. If the juvenile is detained based on the circumstances for which the juvenile was taken into custody, a Juvenile Referral Report and a Probable Cause Statement must be provided to the juvenile court at the time of detention or protective custody. These documents serve as the evidentiary and legal bases to retain temporary custody of the juvenile for a period of not more than twenty-four (24) hours.

## **Fingerprints/Photographs**

Any juvenile alleged to have committed a status offense may be fingerprinted or photographed by law enforcement **with consent of the Juvenile Court Judge**. See Section 211.151.3, RSMo.

## **Interviews and Interrogations**

Juveniles alleged to have committed a status offense need not be subject to formal interviews or interrogations by law enforcement officials as status offenses are non-criminal in nature and relate to issues for which the juvenile requires care and treatment. However, if an interview is necessary, the recommended practice is the same as in a delinquency offense.

The admissibility of any juvenile statement is determined from the totality of circumstances on a case-by-case basis. The Court will evaluate the juvenile’s age, experience, education, background, intelligence and whether the juvenile has the capacity to understand the warnings given to him, the nature of the Fifth Amendment of the United States Constitution rights and the consequences of waiving those rights. See In the Interest of A.D.R., 603 S.W. 2d 575(Mo. 1980)

The Juvenile Officer or designee may not participate in the actual interview or questioning of the juvenile and participation by the juvenile officer may negate the admissibility of a confession or evidence in subsequent proceedings. See State v. Tolliver, 561 S.W. 2d 407 (Mo. App. 1977).

**Note:** The best practice is for the Juvenile Officer to read the rights enumerated in the statute and Rule to the juvenile, parent, custodian, or “friendly” adult and have them indicate understanding and sign a waiver form. **State v. Jones, 699 S.W.2d 525 (Mo.App. E.D. 1985).**

**Note:** A Juvenile Officer should not participate in an interrogation because it is considered a conflict of interest.

**State v. Tolliver, 561 S.W.2d 407 (Mo. App. W.D. 1977)**

A juvenile should be considered “in custody” at a point in time at which a reasonable person would tell him or her that they are not free to leave. The standard is similar to the adult standard. See generally, Rule 111.01.

### **Recommendations for Interviews and Interrogations**

Contact the Juvenile Division to schedule the interview. The Juvenile Division will request the identifying information regarding the juvenile, the name and address of the parent(s) or custodian(s) and information as to the nature of the offense and the basis for the request to interview the juvenile suspect.

Contact the parent(s) or custodian(s) and direct them to respond to Juvenile Division and to bring the juvenile with them if the juvenile is not in custody.

The Juvenile Officer or designee will inform the juvenile of his or her rights and review the Juvenile Rights Waiver form and each element of same said waiver with the juvenile. The juvenile officer or designee should ensure the juvenile and parent(s) or custodian(s) understand the rights and information contained in the Juvenile Rights Waiver.

### **General Conditions for Interviews and Interrogations**

- The atmosphere should be non-intimidating to the juvenile. Weapons should not be visible and no more than two law enforcement officers should be present at the time of the interview.

- The interview should be for a reasonable length of time and include break and/or rest periods if the interview is of a substantial time period.
- A juvenile should only be questioned in circumstances in which the interview is necessary to further the investigative process and/or the alleged offense is of a serious nature (felony offense).
- If the juvenile is represented by an attorney or guardian ad litem, no person may interview or interrogate a juvenile unless the attorney or guardian ad litem is present or has consented to the interview/interrogation.

At the conclusion of the interview, the juvenile officer or designee will make a photocopy of the Juvenile Rights Waiver and provide the original Juvenile Rights Waiver form to the law enforcement officer. This original form should be included as part of the Juvenile Referral Report/Police Report.

## **Exceptions to the Jurisdiction of the Juvenile Court**

**Traffic Ordinance or Regulation** – The Juvenile Division does NOT have the authority to act or intervene in cases involving any child fifteen years of age or older who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony. See Chapter V for additional information on traffic offenses.

**Note:** Under Section 211.033.1, RSMo, “No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071 shall be detained in a jail or other adult detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a juvenile detention facility.” See Chapter V for additional information on traffic offenses.

**Municipal Curfew Violations** – The Juvenile Court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance. See Section 211.031.1(3), RSMo. (Additional information regarding the local requirements for municipal curfew violations should be obtained from the appropriate representative of the local juvenile court or municipality.)

**Tobacco Possession or Use** – The Juvenile Court shall have concurrent jurisdiction with the circuit court as to any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or

use of any tobacco product. *See* Section 211.031.1(3), RSMo. (Additional information regarding the local requirements for offenses related to tobacco possession or use by juveniles should be obtained from the appropriate representative of the local juvenile court.)

**Concurrent Jurisdiction** – jurisdiction exercised by different courts at the same time over the same subject matter and over which either court has the authority to adjudicate the issue. *See* BLACK’S LAW DICTIONARY 291 (6<sup>TH</sup> ED. 1990)

## **Chapter IV – Child Abuse and Neglect**

### **Purpose and Overview:**

The purpose of this section is to build a foundation for successful outcomes when law enforcement officers encounter incidents in which children have been abused or neglected or are in circumstances which may lead to abuse or neglect. Law enforcement officers should be able to recognize various types of child abuse or neglect and the signs that may indicate abuse or neglect has occurred. This section will provide an overview of the initial response and investigation by law enforcement officers in cases of suspected child abuse or neglect.

### **Law Enforcement's Role:**

Because of their presence in the community, law enforcement officers often encounter situations that involve child abuse and neglect. They may be called to emergencies such as domestic violence, child fatalities or incidents of serious physical harm to a child. Law enforcement officers also may see evidence of harm to a child during drug or other arrests. The role of law enforcement in child abuse and neglect cases is to determine if a violation of criminal law occurred, identify and apprehend the alleged offender, submit appropriate criminal charges to the prosecuting attorney and remove children from their families when their immediate safety is in jeopardy. Hammond, B., Lanning, K., Promisel, W., Shepherd, J., & Walsh, B. (2001). *Law enforcement response to child abuse*.

### **Children's Division's Role:**

Children's Division (CD) is the central agency responsible for responding to reports of possible child abuse and/or neglect. CD investigators conduct investigations or initial assessments regarding suspected child abuse or neglect, assess the risk to and safety of children and develop individualized case plans. They also provide or arrange for and coordinate services to achieve safe, permanent families for children who either have been abused or neglected or who are at risk of abuse or neglect.



## **Juvenile Officer's Role:**

The juvenile officer is granted the authority to conduct a preliminary inquiry and make an informal adjustment or file a petition upon receipt of a written referral alleging a child has been subjected to abuse or neglect or may be subjected to abuse or neglect. In addition, upon notification that a child has been taken into protective custody based on a reasonable belief that the child is in imminent danger of suffering serious physical injury or a threat to life as a result of abuse or neglect, the juvenile officer is authorized to initiate proceedings within the juvenile court.

# Responsibilities in Child Abuse/Neglect Cases

Law Enforcement	Children's Division	Juvenile Officer
<ul style="list-style-type: none"> <li>*Receive reports of child abuse and neglect</li> <li>*Conduct investigations of reports of child abuse or neglect when there is a suspicion that a crime has been committed</li> <li>*Identify and report suspected child abuse and neglect to the Central Registry</li> <li>*Examine the crime scene</li> <li>*Collect and preserve evidence</li> <li>*Take statements and confessions</li> <li>*Determine whether a crime occurred and if there is sufficient evidence to prosecute alleged offender(s)</li> <li>*Assist in securing the protection of the child</li> <li>*Notify the Juvenile Officer immediately if a child is taken into protective custody due to child abuse or neglect</li> <li>*Submit a report to the Juvenile Officer within 12 hours detailing why the child was taken into protective custody due to child abuse or neglect</li> <li>*Testify in court.</li> </ul>	<ul style="list-style-type: none"> <li>* Receive reports of child abuse and neglect</li> <li>*Determine whether the child is safe and, if not, develop a plan to ensure the child's protection in the least intrusive manner</li> <li>*Conduct investigations and initial assessments regarding suspected child abuse or neglect</li> <li>*Report child abuse or neglect to law enforcement if there is a suspicion that a crime has been committed</li> <li>*Determine whether the child suffered abuse or neglect or is threatened with harm</li> <li>*Determine if abuse or neglect is likely to occur in the near future and, if so, determine the level of risk</li> <li>*Determine if the family has any emergency needs that must be met</li> <li>*Testify in court.</li> </ul>	<ul style="list-style-type: none"> <li>*Receive requests for protective custody of children suspected of being in imminent danger of child abuse or neglect</li> <li>*Authorize protective custody of children believed to be suffering from illness or injury or in danger of personal harm by reason of his/her surroundings</li> <li>*Conduct a preliminary inquiry and make an informal adjustment or file a petition upon receipt of a written referral alleging child abuse or neglect</li> <li>*Liaison to the court</li> <li>*Ensure best interest of child</li> </ul>

## Children’s Division’s Jurisdiction:

The Children’s Division has the authority as granted by law to investigate allegations of abuse or neglect to include:

**Abuse** – The term “abuse” refers to any physical injury, sexual abuse, or emotional abuse inflicted on a child, other than by accidental means, by those responsible for the child’s care, custody, and control, except that discipline, including spanking, administered in a reasonable manner, shall not be construed to be abuse.

### **Physical Injury - 13 CSR 35-31.010**

“Physical injury” includes any bruising, lacerations, hematomas, welts, permanent or temporary disfigurement; loss, or impairment of any bodily function or organ, which may be accompanied by physical pain, illness, or impairment of the child’s physical condition.

### **Sexual Abuse - 13 CSR 35-31.010**

“Sexual abuse” is any sexual or sexualized interaction with a child, except as otherwise provided in paragraph 2 below.

1. Sexual abuse shall include, but is not limited to:

A. Any touching of the genitals, anus or buttocks of a child, or the breast of a female child, or any such touching through the clothing; any act involving the genitals of a child and the hand, mouth, tongue, or anus of another person; or any sexual act involving the penetration, however slight, of a child’s mouth, penis, female genitalia, or anus by any body part of another person, or by any instrument or object;

B. Any conduct that would constitute a violation, regardless of arrest or conviction, of Chapter 566, RSMo if the victim is less than eighteen (18) years of age, section 567.050, RSMo if the victim is less than eighteen (18) years of age, sections 568.020, 568.060, 568.080, or 568.090, RSMo, sections 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any of the preceding crimes;

C. Sexual exploitation of the child, which shall include:

(I) Allowing, permitting, or encouraging a child to engage in prostitution, as defined by state law; or

(II) Allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child as those acts are defined by state law. This includes the storage or transmission of any data depicting said obscene or pornographic acts, images, or recordings.

2. Any reasonable interaction with a child, including touching a child’s body for the purpose of providing the proper or necessary care or support of the child, shall not be considered sexual abuse. The touching of a child’s body, including a child’s genitals, buttocks, anus, or breasts for reasonable, medical, child rearing, or child care purposes shall not be considered sexual abuse.

3. The division shall not be required to prove that the alleged perpetrator received sexual gratification or that there was an exchange or promise of anything of value as a result of the act of sexual abuse to establish sexual abuse under Chapter 210 or 211, RSMo.

4. The use of force or coercion is not a necessary element for a finding of sexual abuse.

5. Sexual abuse may occur over or under the child’s clothes.

6. The division shall not be required to prove that the child suffered trauma or harm as a result of the act of sexual abuse.

7. A child cannot consent to a sexual or sexualized act or interaction with a person responsible for that child’s care, custody, and control.

### **Emotional Abuse - 13 CSR 35-31.010**

“Emotional abuse” is any injury to a child’s psychological capacity or emotional stability demonstrated by an observable or substantial change or impairment in the child’s behavior, emotional response, or cognition, which may include, but is not limited to: anxiety, depression, withdrawal, or aggressive behavior; and which may be established by either lay or expert witnesses.

**Neglect** – The term “neglect” refers to the failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as provided by the law, nutrition, or medical, surgical, or other care necessary for the child’s well-being.

“**Proper and necessary support**” includes adequate food, clothing, shelter, medical care, or other care and control necessary to provide for the child’s physical, mental, or emotional health or development.

## **Recognizing signs of abuse or neglect:**

### **Physical abuse:**

Children who may have been abused may:

- Be aggressive, oppositional, or defiant
- Cower or demonstrate a fear of adults
- Act out, displaying aggressive or disruptive behavior
- Be destructive to self or others
- Come to school too early or not want to leave school, indicating a possible fear of being at home
- Show fearlessness or extreme risk-taking
- Be described as “accident prone”
- Cheat, steal, or lie (may also be related to too high expectations at home)
- Be a low achiever
- Be unable to form good peer relationships
- Wear clothing that covers the body and may be inappropriate in warmer months, such as wearing a turtleneck sweater in the summer (Be aware that this may possibly be a cultural issue instead.)
- Show regressive or less mature behavior
- Dislike or shrink away from physical contact (e.g., may not tolerate physical praise, such as a pat on the back)

## **Sexual Abuse:**

Children may have been sexually abused if they:

- Have bruises in the inner thigh or genital area
- Have difficulty walking or sitting
- Complain of genital or anal itching, pain, or bleeding
- Frequently vomit
- Become pregnant at a young age
- Have any sexually transmitted diseases.

Additionally, children may have been sexually abused if they exhibit:

- Exceptional secrecy
- More sexual knowledge than is age appropriate, especially in younger children
- In-depth sexual play with peers that is not developmentally appropriate
- Extreme compliance or withdrawal
- Overt aggression
- An inordinate fear of males or females
- Seductive behavior
- Sleep problems or nightmares
- Crying without provocation
- A sudden onset of wetting or soiling of pants or bed
- Suicide attempts or thoughts of wanting to kill themselves
- Numerous attempts at running away from home
- Cruelty to animals (especially those that would normally be pets)
- Setting fires and enjoying watching them burn
- Self-mutilation (e.g., cutting or scratching to draw blood)

## **Psychological Abuse:**

Children who possibly are psychologically abused may exhibit:

- Extremes in behavior (e.g., manically happy or very depressed)
- Withdrawal (e.g., no verbal or physical communication with others)
- Self-destructive behavior (e.g., cutting oneself)
- General destructive behavior
- Cruelty to others, including animals
- Rocking, thumb-sucking that is developmentally inappropriate, or head-banging
- Enuresis (i.e., wetting one's pants) or soiling at an age or a developmental level when such behavior is inappropriate
- Substance abuse
- Physical manifestations, such as frequent stomachaches or headaches or an unexplained weight loss or gain.

## **Neglect:**

Children who possibly are neglected may:

- Seem inadequately dressed for the weather (e.g., wearing shorts and sandals in freezing weather)
- Appear excessively listless and tired (due to no routine or structure around bedtimes)
- Report caring for younger siblings (when they themselves are underage or are developmentally not ready to do so)
- Demonstrate poor hygiene or smell of urine or feces
- Seem unusually small or thin or have a distended stomach (indicative of malnutrition)
- Have unattended medical or dental problems, such as infected sores or badly decayed or abscessed teeth
- Appear withdrawn
- Crave unusual amounts of attention, even eliciting negative responses in order to obtain it
- Be chronically truant.

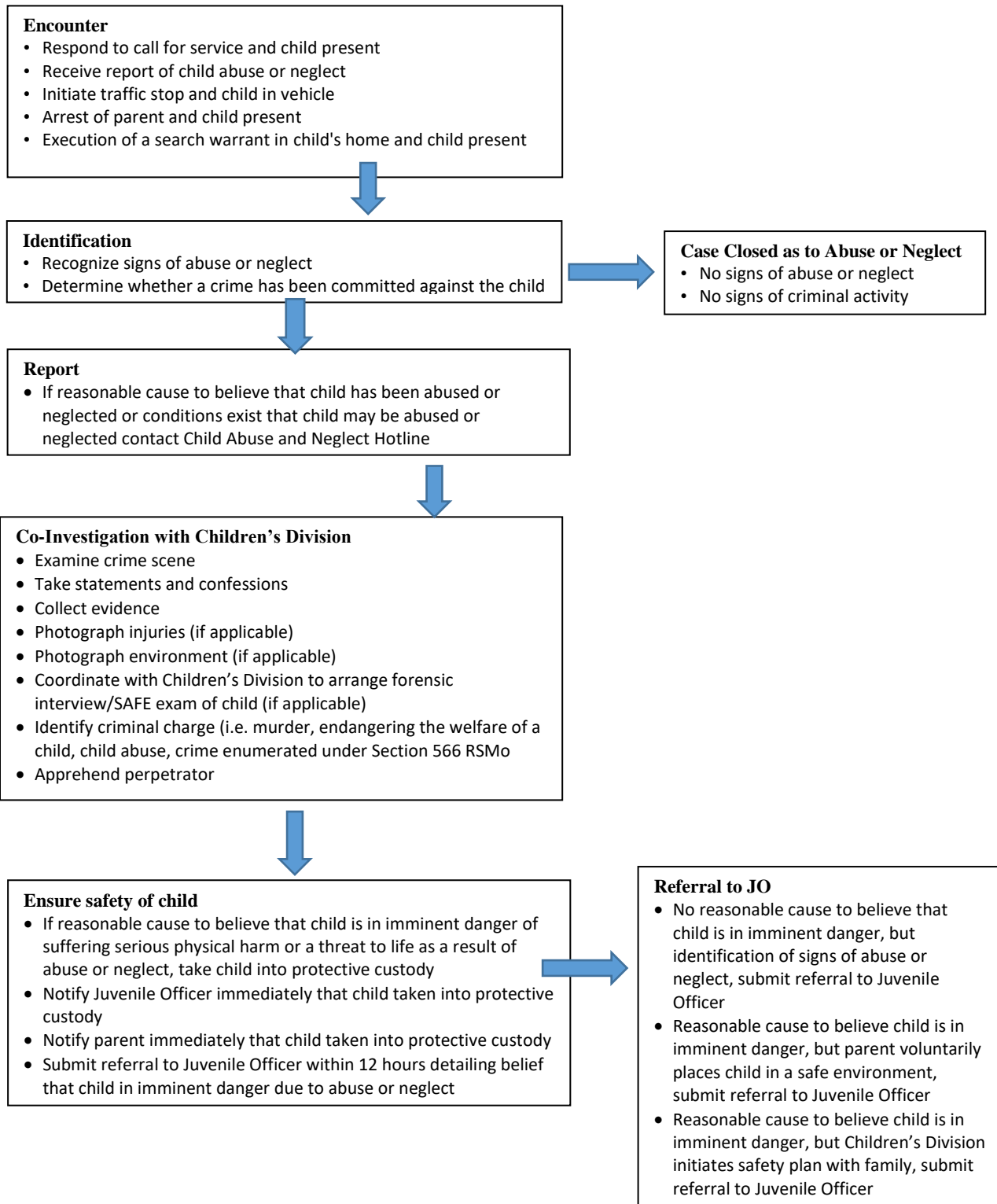
## **Jurisdiction:**

**Law Enforcement's Jurisdiction:** See elements of crimes per Missouri Statutes. Common criminal charges may include, but are not limited to the following; child abuse, endangering the welfare of a child, sexual offenses enumerated within Section 566 RSMo.

**Juvenile Court Jurisdiction:** the Juvenile Division or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings involving:

- 1) **Age** – a child or person seventeen years of age; AND,
- 2) **Residency** – the child resides within the county or is found within the county (requires physical presence); AND,
- 3) **Probable Cause** – Probable cause exists to believe that the child is in need of care and treatment due to one or more of the following;
  - (a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, nutrition, or medical, surgical, or other care necessary for his or her well-being; except that reliance by a parent, guardian, or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state; or
  - (b) The child or person seventeen years of age is otherwise without proper care, custody, or support; or
  - (c) The child or person seventeen years of age was living in a room, building, or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo; or
  - (d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian, or custodian is unable to afford or access appropriate mental health treatment or care for the child.

## Best Practices for Handling Abuse/Neglect Referrals:





## **Mandated Reporting:**

The first and most appropriate action in all cases of alleged child abuse and neglect in which no imminent danger or immediate threat to life exists is to make the mandated report to the Child Abuse and Neglect Hotline at 1-800-392-3728. Law enforcement officers are required to make a report of child abuse and neglect when they have reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes the child being subjected to conditions or circumstances which would reasonably result in abuse or neglect to the child.

Again, this report should be made as soon as the Law Enforcement Officer has knowledge of any of the conditions which mandate a report of child abuse and neglect and if a child is currently in custody, the officer should advise the Child Abuse and Neglect Hotline of the emergency nature of the report and request an immediate response from the on-call investigator for the Missouri Children's Division.

## **Protective Custody of Child, Who May Take, Reports Required - Temporary Protective Custody Defined:**

1. A police officer, law enforcement official, or a physician who has reasonable cause to suspect that a child is suffering from illness or injury or is in danger of personal harm by reason of his surroundings and that a case of child abuse or neglect exists, may request that the juvenile officer take the child into protective custody under chapter 211.

2. A police officer, law enforcement official, or a physician who has reasonable cause to believe that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person has reasonable cause to believe the harm or threat to life may occur before a juvenile court could issue temporary protective custody order or before a juvenile officer could take the child into protective custody, the police officer, law enforcement official or physician may take or retain temporary protective custody of the child without the consent of the child's parents, guardian or others legally responsible for his/her care. See Section 210.125

## Elements of Imminent Danger:

- Time-the danger is imminent or immediate
- The perceived risk must be serious in that there is a threat to life or serious physical harm or that the child has been or is in danger of being sexually abused
- Action must be taken immediately to prevent further harm

### ASSESSING SAFETY

**UNSAFE CHILD = Threats of danger exist + Child is vulnerable to the threat + Parent is unable to protect child from the threat**

#### Threats of Danger

1. No adult in the home is routinely performing basic and essential parenting duties and responsibilities
2. The family lacks sufficient resources, such as food and shelter, to meet the child(ren)'s needs.
3. One or both parents' behavior is violent and/or they are behaving dangerously.
4. One or both parents' behaviors is dangerously impulsive or they will not/cannot control their behavior.
5. Parents' perceptions of the child(ren) or another child(ren) in the home are extremely negative.
6. One or both parents are threatening to severely harm the child(ren) or another child(ren) in the home, are fearful they will maltreat the child(ren) or another child(ren) in the home, and/or request placement.
7. One or both parents intend(ed) to seriously hurt the child(ren) or another child(ren) in the home.
8. Parents largely rejects CD interventions; refuse access to the child(ren); and/or the parents may flee
9. Parents refuses and/or fails to meet the child(ren) exceptional needs to do/can result in severe consequence to the child(ren) or another child(ren) in the home.
10. The child's living arrangements seriously endanger the child's physical health.
11. The child(ren) or another child(ren) in the home have/has serious physical injuries or serious physical symptoms from maltreatment and parents are unwilling or unable to arrange or provide care.
12. The child(ren) or another child(ren) shows serious emotional symptoms requiring immediate help and/or lacks behavioral control, or exhibits self-destructive behavior and parents are unwilling or unable to arrange or provide care.
13. The child(ren) or another child(ren) is profoundly fearful of the home situation or people within the home.
14. Parents cannot/will not/ does not explain the child's (or another child in the home) injuries or threatening family conditions.
15. Caregiver cannot control sexual impulses (e.g. sexual activity with or in front of child(ren)).

### **Vulnerability of Child**

- What is the age of the child (children under 7 are generally unable to meet their own needs)
- What is the developmental level of the child
- Does the child have a physical disability or illness
- Is the child in a position of being powerless/defenseless
- How visible is the child in community
- What is the child's ability to communicate
- Is the child a scapegoat
- What is the relationship between the child and perpetrator
- Is the child accessible to the perpetrator

### **Parents' Protective Capacity**

- Does the parent have prior child abuse/neglect record through Children's Division
- Does the parent have a prior criminal history pertaining to child abuse/neglect, endangering the welfare of a child, substance abuse, assaultive behavior, domestic violence, murder, sexual abuse
- How is the parent behaving at time of contact
- In speaking with the parent, what is the cognitive functioning of the parent
- What is the developmental level of the parent
- Is the parent emotionally able to protect the child
- Is the parent physically able to protect the child

### **Limitations and Conditions:**

The following limitations exist regarding situations for children who have been placed into protective custody as a result of child abuse and neglect:

**Restraints** – Children subject to abuse and neglect should not be handcuffed or otherwise restrained unless the child represents an immediate threat to himself/herself or other persons. Unless the child is currently accused of having committed a law violation, he/she may not be placed in a cell, locked in a room/secure area, or handcuffed to a stationary object.

**Physical Placements** –When a child must go into protective custody, he or she may feel afraid, lost, and angry. This can be a very traumatic time for a child, especially when he/she is placed with a stranger. To minimize this trauma, the Division has been mandated by law (See Section 210.565, RSMo.) to give preference and first consideration for foster care placement to a grandparent of a child. If grandparents are not available or are not interested in caring for the grandchild, other related providers will be given first preference and first consideration over foster family placement providers. Actual physical placements should be facilitated by the Missouri Children’s Division. Law enforcement officers can assist in this process by getting names of relatives from caregivers at the time of the adult arrest, or the placement of the child.

**Transport** – Children who have been taken into protective custody should not be transported to the Juvenile Division (or detention facility, if there is one available). Children should be held in a non-secure setting until a Children’s Division Social Worker arrives to take custody and secure placement as required by law.

**Responding to the child victim:** When responding to a call of physical or sexual abuse of a child, best practice would indicate law enforcement or the Children’s Division Case Manager schedule a forensic interview of the child with the local Child Advocacy Center. However, a preliminary interview may be necessary to determine the safety of the child and/or whether a crime has occurred against the child. The law enforcement officer should be cautious in interviewing the child. Suggestions in response to the child victim are included on the next page.

Responding to a child victim	Ways to calm an anxious child
<ul style="list-style-type: none"> <li>-Avoid jumping to conclusions</li> <li>-Be at child’s eye level</li> <li>-Comfortable space between interviewer and child</li> <li>-Child friendly environment</li> <li>-Be mindful of your facial expressions and body language</li> <li>-Minimize use of yes or no and multiple-choice questions</li> <li>-Use open ended questions (Ex: <i>What happened to your arm?</i>)</li> <li>-Listen carefully and completely</li> <li>-Assess child’s understanding of key concepts (telling the truth, understanding timeframes)</li> <li>-Reduce vocabulary problems by using child’s vocabulary</li> <li>-Clarify any areas of confusion</li> <li>-Avoid using double negatives</li> <li>-Observe the child’s nonverbal communication and body language</li> <li>-Document interview carefully and completely using child’s words (audio or video tape interview)</li> <li>-If the child indicates in any manner, after being taken into custody by the Juvenile Officer or law enforcement, and inclusive of any acts involving the Missouri Children’s Division, that he/she does not wish to be questioned further or he/she wishes to have his/her parent, guardian, or custodian present and the parent, guardian, or custodian is not the alleged perpetrator, or the child wishes to have an attorney present, all questioning will cease until such time that the child does not object to further questioning.</li> </ul> <p><b>Note:</b> This requirement shall not be construed to prevent asking questions necessary for the care, treatment, or placement of the child.</p>	<ul style="list-style-type: none"> <li>-Respond as quickly as possible to the child’s signs of distress by approaching child and by showing interest in what the child is feeling</li> <li>-Do not hug or touch the child unless she/he says it is okay to do so</li> <li>- “Listen” to what the child is saying with words and actions</li> <li>-Take the child’s feelings, especially fear seriously</li> <li>-Be as relaxed as possible when helping the child calm</li> <li>-Restate to the child what she/he is saying to make sure she/he is understood</li> <li>-Provide appropriate outlets for strong emotions, including anger, frustration, sadness and loneliness</li> </ul>

*Resource: The Role of First Responders in Child Maltreatment Cases: Disaster and Nondisaster Situations. U.S. Department of health and Human Services Administration for Children and Families; Administration on Children, Youth and Families; Children’s Bureau; Office on Child Abuse and Neglect (2010).*

## Chapter V – General Procedural Issues and Protocol

### Traffic Offenses

Type of Offense	Under 15	15 and older
Routine Traffic (Misdemeanor)	Handle as a juvenile.	Handle as an adult.*
All Felonies (Including Traffic)	Handle as a juvenile, take fingerprints, and photographs.	Handle as a juvenile, take fingerprints, and photographs.
DWI 1 <sup>st</sup> and 2 <sup>nd</sup> Offenses	Handle as a juvenile.	Handle as an adult.*
Leaving scene of accident (Misdemeanor)	Handle as a juvenile.	Handle as an adult
Leaving scene of accident (Felony)	Handle as a juvenile, take fingerprints, and photographs.	Handle as a juvenile, take fingerprints, and photographs.

\* Section 211.033 RSMo. – No person under the age of seventeen years, except those transferred to the court of general jurisdiction under the provisions of section 211.071, shall be detained in a jail or other detention facility as that term is defined in section 211.151. A traffic court judge may request the juvenile court to order the commitment of a person under the age of seventeen to a juvenile detention facility.

## **Juvenile Offenses at School**

**Discipline and behavior problems are the responsibility of school officials and not of law enforcement, unless a crime has been committed.** Law enforcement officers need to independently determine whether matters are of a disciplinary or criminal nature.

1) **Removing a Juvenile from School**

Law enforcement officers should not remove a juvenile from school (take into custody) without probable cause that the juvenile has committed a crime under standards applicable to adult arrests.

2) **Delinquent Acts in School**

Delinquent acts in the school setting should be investigated and handled by law enforcement in the same manner as any other criminal investigation. Complete the investigation and forward the report to the Juvenile Office.

**Note: Law Enforcement may want to consult with their local schools and Juvenile Officers to determine if a memorandum of understanding exist which may exclude certain offenses from being reported to the juvenile office. If no memorandum of understanding exists in your jurisdiction, law enforcement officials are encouraged to partner with schools and juvenile officers to consider the development of a memorandum of understanding to prevent youth from unnecessarily entering in the juvenile justice system.**

### **Safe Schools Act**

The Safe Schools Act appears in various sections of the Missouri Revised Statutes. The information below is from section 160.261, RSMo.

School administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies, or any act which if committed by an adult would be one of the following felonies, committed on school property including, but not limited to, actions on any school bus in service on behalf of the district or while involved in school activities:

1. First Degree Murder under section 565.020, RSMo;
2. Second Degree Murder under section 565.021, RSMo;

3. Kidnapping under section 565.110, RSMo as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110 RSMo;
4. First Degree Assault under section 565.050, RSMo;
5. Rape in the First Degree under section 566.030, RSMo;
6. Sodomy in the First Degree under section 566.060, RSMo;
7. Burglary in the First Degree under section 569.160, RSMo;
8. Burglary in the Second Degree under section 569.170, RSMo;
9. Robbery in the First Degree under section 569.020, as it existed prior to January 1, 2017, RSMo, or Robbery in the First Degree under section 570.023 RSMo;
10. Distribution of Drugs under section 195.211, RSMo as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055 RSMo;
11. Distribution of Drugs to a Minor under section 195.212, RSMo as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020 RSMo,
12. Arson in the First Degree under section 569.040, RSMo;
13. Voluntary Manslaughter under section 565.023, RSMo;
14. Involuntary manslaughter under section 565.024, RSMo as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027 RSMo;
15. Second Degree Assault under section 565.060, RSMo; as it existed prior to January 1, 2017, or second-degree assault under section 565.052 RSMo;
16. Rape in the second degree under section 566.031 RSMo;
17. Felonious Restraint under section 565.120, RSMo as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120 RSMo;
18. Property Damage in the First Degree under section 569.100;
19. The possession of a weapon under Chapter 571, RSMo;
20. Child molestation in the first degree pursuant to section 566.067, RSMo; as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069.
21. Sodomy in the second degree pursuant to section 566.061 RSMo;
22. Sexual misconduct involving a child pursuant to section 566.083, RSMo;
23. Sexual abuse in the first degree pursuant to section 566.100, RSMo;



24. Harassment under section 565.090 as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090 RSMo;
25. Stalking under section 565.225 as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225 RSMo;

## **Juvenile Absconders and Requests to Detain**

**Delinquent Absconders, Out-of-State Runaways, Division of Youth Services Administrative Requests to Detain Out-of-County Runaways/Delinquents** – Law enforcement should verify that the juvenile is wanted as an absconder or Out-of-State Runaway with the reporting agency. If the agency requests the juvenile be held pending further court action or pending the release of the juvenile to a parent, guardian, or custodian, the law enforcement officer should ask for written verification of that request and provide a written referral to the juvenile office with a request to detain attached.

**Note:** The law of the requesting state is the law that should be followed regarding determining whether to treat the absconder, runaway, or subject of the request to detain as a juvenile or an adult in the state of Missouri. If the requesting state would treat the absconder, runaway or subject of the request to detain as a juvenile then Missouri should treat the absconder, runaway or subject of the request as a juvenile regardless of their age.

### **Children in the Custody of the Missouri Children’s Division**

Any juvenile runaway or absconder in the legal custody of the Missouri Children’s Division should be returned to the physical custody of the Missouri Children’s Division as soon as practical. Juveniles in the legal custody of the Missouri Children’s Division are not appropriate for placement in a detention facility.

### **Interstate Compact on Placement of Children/Interstate Compact on Juveniles**

The Compact is a uniform law enacted by all 50 states and four of the six U.S. Territories (as of 2018, Guam and Puerto Rico are not part of the Compact) to assist in the placement of children from one state to another. Provisions of the Interstate Compact on the Placement of Children (ICPC) and Interstate Compact on Juveniles (ICOJ) ensure the same protection and services to children as if they had remained in their home state. ICPC involves youth under the care of children’s service agencies. ICOJ youth are supervised by their state’s juvenile or correctional agencies. See 210.570

<b>State</b>	<b>Age of Majority</b>	<b>Maximum Age of Probation</b>	<b>Maximum Age of Parole</b>
Alabama	19	21	21
Alaska	18	18	18
Arizona	18	18	18
Arkansas	18	Contact ICJ Office	Contact ICJ Office
California	18	21	23 (25 for Juveniles committed prior to 7/1/2012)
Colorado	18	Open Age – “If a crime is committed as a juvenile, the offender will be placed on Juvenile Probation regardless of the age when adjudicated.”	21
Connecticut	18	17	19
Deleware	18	19	19
Florida	18	19	21
Georgia	18	21	21
Hawaii	18	20	20
Idaho	18	21	21
Illinois	18	21	21
Indiana	18	21	21
Iowa	18	18	18
Kansas	18	23	23
Kentucky	18	21	21
Louisiana	18	21	21
Maine	18	21	21
Maryland	21	21	21
Massachusetts	18	21	21
Michigan	18	21	21
Minnesota	18	21	21
Mississippi	18	20	20
Missouri	18	21	21
Montana	18	25	18
Nebraska	19	19	19
Nevada	18	21	21
New Hampshire	18	19	18
New Jersey	18	27	27
New Mexico	18	21	21
New York	16	18	18
North Carolina	18	19	21
North Dakota	18	18	20
Ohio	18	21	21
Oklahoma	18	19	19
Oregon	18	23	25
Pennsylvania	18	21	N/A No Parole
Rhode Island	18	19	N/A No Parole
South Carolina	18	18	21

South Dakota	18	21	21
Tennessee	18	21	21
Texas	18	18	19
Utah	18	21	21
Vermont	18	22	22
Virginia	18	21	21
Washington	18	21	21
West Virginia	18	21	N/A No Parole
Wisconsin	18	19	25
Wyoming	18	21	N/A No Parole
District of Columbia	18	21	21
Virgin Islands	18	21	21

<https://www.juvenilecompact.org/age-matrix>

This is the most current information available as reported by each individual state. For more information please contact Julie Hawkins, Deputy Compact Administrator: (573) 751-1283.

## **Custody Disputes**

If the juvenile is not subject to the jurisdiction of the Juvenile Division, the Juvenile Officer has no legal authority to advise any party regarding custody disputes or to enforce any order relating to child custody. Consult with your departments legal counsel about ability to enforce custody orders.

## **Records**

All identifiable information regarding a juvenile included in the records of a juvenile court proceeding must be kept confidential unless the specific instances set forth in Section 211.321, RSMo, are met.

Peace officers' records, if any are kept, of children shall be kept separate from records of persons seventeen years of age or over and shall not be open to inspection nor the contents of same disclosed, except by order of the court. *See* Section 211.321, RSMo.

The Court may order the destruction of all records other than the official court file and may order the official court file and peace officers' records sealed. *See* Section 211.321, RSMo.

## **Summons and Child Witnesses**

Section 211.101, RSMo. grants the juvenile officer the authority to request a subpoena for the appearance of "any other person whose presence, in the opinion of the judge, is necessary." *See* also Rule 114.04.

Service of the petition, motions, notices, and other papers for a child 12 years of age or older are to be served on the child personally. Service of the petition, motions, notices, and other papers for a child less than 12 years of age are to be served on the child's custodian. *See* Section 211.101, RSMo, Rule 114.01(c), and Rule 114.05(c).

When serving a child witness, the best practice would be to serve a child 12 years of age or older **and** the custodian that would need to bring the child to court.

## **Juvenile Witness or Victim Statements**

Juveniles who are witnesses to or victims of a crime may be interviewed by law enforcement as needed to further the criminal investigation. As a general rule, there is no requirement to have a juvenile officer present when the witness or victim is being interviewed however the officer should contact the juvenile officer to ensure the juvenile is not represented by legal counsel in any other proceeding. In addition, the officer should notify

the juvenile officer that the juvenile is being interviewed or questioned as a witness or victim of an illegal act. It is advisable to notify the juvenile's parent, guardian, or custodian prior to an interview by law enforcement as a witness or victim of a criminal act. See Supreme Court rule 127.10

## **Intervention Resources**

### **ParentLink WarmLine – 1-800-552-8522**

ParentLink provides support for parents and professionals through research-based information about parenting, a free loan library of parenting resources, and over-the-phone or email consultation through website:

<https://education.missouri.edu/parentlink/>

### **Parent Stress Helpline – 1-800-367-2543**

24-hour assistance for parents experiencing a crisis managing their child's behavior.

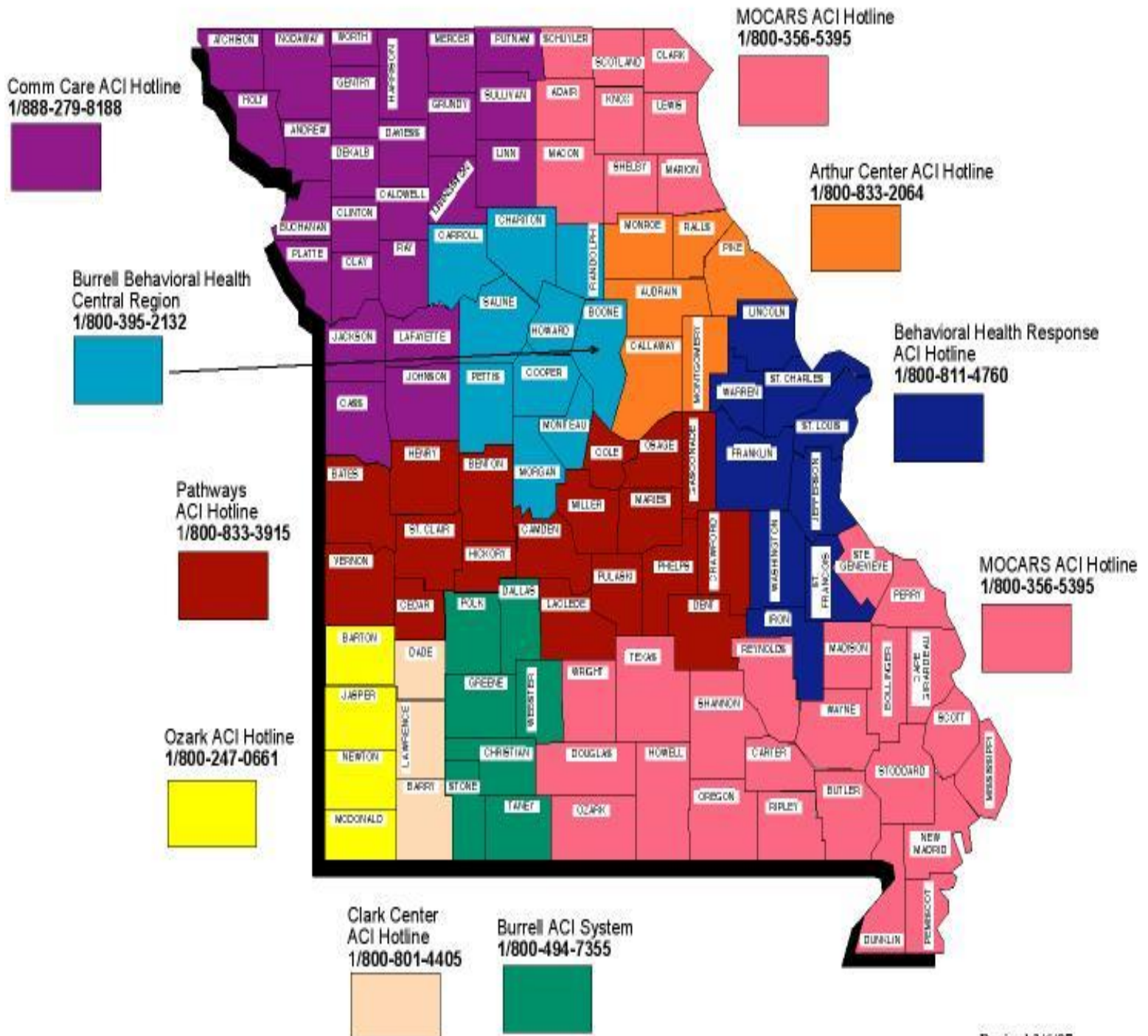
### **Suicide Hotline – 1-800-784-2433**

### **Sex Trafficking Hotline- 1-888-373-7888**

### **Abuse/Neglect Hotline- 1-800-392-3738**

**Access Crisis Intervention** – The Access Crisis Intervention (ACI) line is staffed by mental health professionals who can respond to crisis 24 hours per day and 7 days per week. This map shows the regions, providers, and phone numbers for ACI services.

## Access Crisis Intervention (ACI) Hotlines



Revised 3/6/07

## **Emancipation**

Emancipation is a legal concept related to when and whether parents are required to support a minor and is not relevant to the determination of whether a juvenile referral may be submitted.

## **Immigration Issues**

The Juvenile Division does not have legal authority to detain juveniles regarding immigration issues.

## **Drug/Alcohol Testing**

Juveniles in law enforcement custody should not be subject to drug and alcohol testing except as ordered by the court or as is consistent with statutory requirements. Consent of the parent does not provide proper legal authority to subject a juvenile to drug and alcohol testing by law enforcement. Parents requesting testing of their child should be instructed to make arrangements through their family physician or health care provider.

## **Searches and Search Warrants**

**Search Warrants** – Search warrants may be obtained concerning investigations relating to issues of delinquency. The application for the search warrant shall be made to the office of prosecuting attorney. See Statue 542.266 RSMo.

**School Officials** – School officials must use “reasonableness” to search lockers, bags, students, etc., at school. Reasonableness is determined by the totality of the circumstances. School officials can be seen as “government agents” when they are working with police or the prosecutor to search the school. If this is the case, then the best practice would be for law enforcement to obtain a search warrant for the search. See New Jersey v. T.L.O., 469 U.S. 325 (1985); State v. Baccino, 282 A. 2d 869 (Del. Super. Ct. 1971).

**Law Enforcement** – Law enforcement should follow the same guidelines they would with an adult when searching the person or property of a juvenile.

## **Voice Stress/Polygraph Testing**

Juveniles who are not in custody may voluntarily, and with the consent of their parent, guardian, or custodian, submit to a voice stress or polygraph test. This is for investigative purposes only and may not be admissible in court.

## **Right to Counsel**

A juvenile and the parent, guardian, or custodian of the juvenile has the right to be represented by legal counsel in all stages of the any juvenile court proceedings including any interview or interrogation. See Rule 115.02 and 115.03.

## **Tours of Jails/Adult Prisons**

The Office of Juvenile Justice and Delinquency Prevention notes that whether such programs may result in instances of non-compliance with the separation and/or jail removal requirements will depend on the specific manner in which the program operates and the circumstances of the juveniles' participation in the program. A key factor in determining whether instances of non-compliance have occurred is whether juveniles participating in the program were free to leave the program while in sight or sound contact with adult inmates. If a parent or guardian has consented to his child's participation and may withdraw that consent at any time, the juvenile is not detained and the Separation and Jail Removal Core Requirements cannot apply. The Office of Juvenile Justice and Delinquency Prevention, Missouri Department of Public Safety and Missouri Juvenile Justice Association **strongly discourages** the use of such programs.

**Please contact the Juvenile Justice Compliance Monitor at the Missouri Department of Public Safety for guidance about whether a particular program may result in—or has resulted in—instances of non-compliance.**



## **Common Questions about Detaining Juveniles According to the Juvenile Justice and Delinquency Prevention Act**

### **What are some examples of “secure confinement”?**

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 is still considered a secure hold. 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 also considered secure, regardless of how the locks are intended to be used or whether secure holding devices are utilized.

### **How can status offenders be held if they cannot be securely detained?**

With respect to youth accused of status offenses, there are additional restrictions on where they can be held. Status offenders must be held in non-secure areas of the law enforcement facility without any secure holding features (such as lockable/locked doors or immovable cuffing devices) that could be used to prevent a path of free egress. Status offenders held in lockable rooms, locked rooms or cells, or rooms that contain immovable cuffing 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 and confine” as it is currently defined.

### **What types of areas are considered “non-secure”?**

A lobby, office, or multi-purpose area not intended for residential use, that cannot be locked in such a way as to prevent free egress and not within a secure perimeter may be considered non-secure. The youth should remain under continuous supervision (which may include electronic supervision) by a law enforcement officer or facility staff during the period of time that he or she is in non-secure custody.

### **Does the Deinstitutionalization of Status Offenders requirement mean that status offenders can’t be handcuffed?**

Status offenders may be handcuffed to themselves or to a non-stationary object, such as an office chair, as long as “detain or confine” is not implicated.

**Are there any restrictions on transporting a juvenile in a patrol car?**

The JJDP Act applies to detention facilities and secure correctional facilities. A patrol car is not a “facility”. Therefore, a juvenile placed in a patrol car would be in a non-secure status. Both status offenders and delinquent offenders may be handcuffed for officer safety and transported in the back of a patrol car.

**What happens if a status offender becomes combative? Do they still have to be held in non-secure custody?**

If a status offender commits a law violation while in custody, and is charged with that law violation, he/she can then be “detained or confined” pursuant to that law violation, i.e., assault, vandalism, etc. The law violation must be documented in a referral.

**Does sight and sound separation apply in the booking area?**

Yes-Sight and Sound Separation from adult inmates is required in all secure areas of adult jails and lockups.

# Appendix

# LOG OF JUVENILES DETAINED OR CONFINED

within the Law Enforcement Facility

PERIOD:

FACILITY:

Case Number	Juvenile ID or Initials	Age	Race	Gender	Most Serious Offense Alleged	Date/Time Arrived at Department	Date/Time Released from Department	Location Code (Include All)	Disposition Code	Detaining Officer	Key
											<b>Race Code:</b> W = White B = Black H = Hispanic I = American Indian A = Asian O = Other  <b>Location Code:</b> 1 = Interview Rm (Locked/lockable) 2 = Interview Room (Not Lockable) 3 = Cell 4 = Area/Room with Immovable Cuffing Device(s) 5 = Break Room 6 = Lobby 7 = Roll Call/Conf. Rm. 8 = Other (Explain)  <b>Disposition Code:</b> A = Rel to Guardian B = Rel to Juv Officer C = Rel to CD or DYS D = Transfer to JJC E = Transfer to Hospital F = Other (Explain)
A Status Offender* detained or confined at a law enforcement facility <b>MAY NOT</b> be placed in any room or area with secure holding capability. This includes: locked rooms, lockable rooms, rooms with stationary cuffing devices, cells, or any area within a secure perimeter. A path of free egress must be available.											
A Delinquent Offender detained or confined at a law enforcement facility may be securely held for up to six (6) hours for investigative purposes, release, or while awaiting transportation to a juvenile detention center.											
*A status offense is a noncriminal behavior that constitutes an offense only because of one's status as a minor. Examples include: Running Away, Truancy, Curfew Violations, Incurability, Beyond Parental Control, Behaviors Injurious to Self or Others, and Minor in Possession of Tobacco.											

**MISSOURI'S JUVENILE DETENTION ASSESSMENT (JDTA) FORM** 5/1/13

Juvenile Name: \_\_\_\_\_ Race: \_\_\_\_\_ Gender: \_\_\_\_\_  
 Juvenile ID (JIS, if available): \_\_\_\_\_ Assessment Staff: \_\_\_\_\_  
 SSN: \_\_\_\_\_ Assessment Date: \_\_\_\_\_  
 DOB: \_\_\_\_\_ Assessment Time: \_\_\_\_\_  
 Presenting Offense: \_\_\_\_\_ Case Number: \_\_\_\_\_

**1. Reporting Reason Code for Detention**

- A. JDACO Court Ordered Detention at Hearing
- B. JDAWF Warrant – FTA
- C. JDBTC Supervision/Technical Violation , JO Authorization, or Court Order
- D. JD CPA Pre-Adjudication Placement or Program Failure
- E. JDCSX Sex Offense
- F. JDDFP Felony – Person
- G. JDDMP Misdemeanor – Person
- H. JDDWE Weapons Offense
- I. JDEDR Drug Offense
- J. JDEFP Felony – Property
- K. JDEMP Misdemeanor – Property
- L. JDFFO Felony – Other
- M. JD FMO Misdemeanor – Other
- N. JD FOR Municipal Ordinance
- O. JD FST Status Offense
- P. JDRAR Pre-Adjudication – New Offense Referral Add to CZAROOM (Can not be selected by itself)

*DO NOT complete JDTA on :  
 DYS Warrants or Out of Jurisdiction Holds  
 Indicator code must be added on CZAROOM.*

FACTOR	SCORE	FACTOR	SCORE
<b>2. Capias or Court Order</b>		<b>5. Prior Juvenile Referrals</b>	
A. Capias for secure detention.....	15	A. 5 or more sufficient law violation referrals..	10
B. Court order for secure detention .....	15	B. 3-4 sufficient law violation referrals .....	8
C. None.....	0	C. 1-2 sufficient law violation referrals .....	6
		D. None .....	0
<b>3. Most Serious Presented Offense</b>		<b>6. Current Legal Status</b>	
A. A or B felony, felony sex offense, or unlawful felony possession or use of a firearm or explosive device.....	15	A. Alternative to secure detention failed .....	5
B. Other felony offense <i>against person</i> .....	12	B. Currently in DYS custody .....	4
C. Other felony .....	11	C. Felony or misdemeanor petition pending.....	3
D. Misdemeanor sex offense, <i>with prior sex offense referral, or easy access to a victim</i> ..	10	D. Current formal or informal supervision for a law violation .....	2
E. Other misdemeanor sex offense.....	5	E. None .....	0
F. Misdemeanor <i>against person involving injury</i> .....	4	<b>7. Flight Risk</b>	
G. Other misdemeanor.....	3	A. Prior escape from secure detention facility ....	5
H. Infraction or municipal offense.....	1	B. Prior failure to appear for court hearing .....	4
I. Supervision/Technical violation .....	1	C. Prior escape from custody (DJO or law enforcement) .....	3
J. Status Offense .....	0	D. Out-of-state resident/runaway .....	2
K. None .....	0	E. None .....	0
<b>4. Unrelated Presented Offenses</b>		<b>Assessment Score</b> ..... _____	
A. Two or more unrelated felonies .....	3	<b>Indicated Decision:</b> 1 – 9 = Release	
B. One unrelated felony .....	2	10 – 14 = Detention Alternative	
C. One or more unrelated misdemeanors .....	1	15 & above = Detention	
D. None .....	0		

**Reason for Override:**

- O11DET** No suitable custodian, parent, guardian or other suitable person to assume custody
- O12DET** Serious or credible threat to a witness
- O13DET** Serious or credible threat to the victim
- O14DET** Serious or credible threat to the community
- O15DET** No non-secure alternative is immediately accessible
- O16DET** No non-secure appropriate alternative exists
- O17DET** Out-of-state runaway/missing person (no capias)
- O18DET** Other (provide separate explanation)
  
- O21ALT** Mental health placement obtained
- O22ALT** Does not meet local age guidelines
- O23ALT** Medical condition
- O24ALT** Pregnancy
- O25ALT** Non-secure alternative utilized
- O26ALT** Other (provide separate explanation)
  
- O31REL** Does not meet local age guidelines
- O32REL** Medical condition
- O33REL** Pregnancy
- O34REL** Referral insufficient-Released
- O35REL** Other (provide separate explanation)-Released

Explanation for "Other" override: \_\_\_\_\_  
(Unable to add this to JIS at this time)

**Supervisory override authorized by:** \_\_\_\_\_  
(Unable to add this to JIS at this time)

**CZAPROG code based on Assessment Decision:** *Code shall be added on all youth with a JDTA!*

- DET – Detention
- ALTTCR – Conditional Release
- ALTCSV – Counseling Services
- ALTDT – Day Treatment
- ALTEM – Electronic Monitoring
- ALTERC – Evening Reporting Center
- ALTDRUGTR – Drug/Alcohol Treatment
- ALTGPS – Global Positioning System
- ALTHP – Health Placement
- ALTICIS – Intensive Crisis Intervention Services
- ALTIHD – In Home Detention
- ALTMHP – Mental Health Placement
- ALTREP – Respite Care
- ALTRES – Residential Placement
- ALTSHE – Shelter Care
- ALTRK – Assigned Tracker
- RELJDTA – Released on JDTA

(CZAPROG Supervising Agency) Alternative @ / with: \_\_\_\_\_

FINAL DECISION:	Release	Detention Alternative	Detain
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