



Ocean City Police Department

General Order

Subject: Juvenile Arrest and Custody Matters		No. G.O. 600 J-1	
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I. Purpose

The purpose of this Policy is to provide a uniform procedure for the treatment, care, custody, and control of juvenile contacts and complaints, as well as to direct police employees in the proper methods of processing and recording juvenile offender data in accordance with State and Federal law. To accomplish goals associated with addressing juvenile offenders, the judicial system, the police department, other agencies/services, the school system, and the juvenile's family must work together in an effort to positively affect the behavior and outlook of the juvenile. Goals to accomplish this task include:

- A. Correct wrongful behavior and positively impact the outlook of juveniles;
- B. Support the family unity of juveniles;
- C. Use the least coercive methods for juvenile offenders when possible;
- D. Involve family members and other social service agencies in the process of dealing with wrongful juvenile behavior;
- E. Protect juveniles from current or future harm while maintaining public safety and order.

II. Definitions

- A. **Delinquent Offender:** A juvenile who has been charged with an offense for which an adult can also be charged.
- B. **Detained:** Formally held pending release to the Department of Juvenile Services (D.J.S.), the Department of Social Services (D.S.S.), parent, relative, guardian, or other. Can be in an informal, non-secure room.
- C. **Non-offender:** A juvenile who is not charged with an offense, usually a child in need of supervision or assistance (C.I.N.S. or C.I.N.A.).
- D. **Secured Custody:** Detention of an individual in locked cell/room or handcuffed to a stationary object.
- E. **Status Offender:** A juvenile who has been accused or adjudicated for an offense for which adults cannot be charged. Status offense include:
 - 1. Runaway
 - 2. Truancy
 - 3. Incurable
 - 4. Underage drinking
 - 5. Curfew violations

III. Policy

The judicial system takes a different approach with juveniles than with adult offenders. The judicial system seeks, to the extent possible, to correct wrongful behavior of juveniles rather than primarily punishing them. Police officers must first preserve public safety and the safety of the juvenile and, second, utilize available resources to positively intervene in the juvenile's life to positively influence behavior. The basic philosophy of juvenile law is to protect children from abuse or neglect, to prevent delinquency, and to rehabilitate juveniles where possible. The Department will handle juvenile offenders in a manner consistent with Federal/State Law and approved juvenile custody practices.

IV. Arrest

Police officers are authorized to temporarily detain juveniles for investigative purposes, to issue citations or criminal charges, and to safeguard them. The laws of arrest that apply to adult offenders also apply to juveniles. Juveniles may also be taken into custody by an order of the Court, if they are in danger from their immediate surroundings, or if they run away from their parent or legal guardian. When a juvenile is arrested or otherwise taken into police custody, employees shall abide by the following requirements unless the juvenile is being charged as an adult.

A. Constitutional Rights

Juveniles are entitled to all constitutional rights afforded adults. Employees will fully respect juvenile's constitutional rights.

B. Transportation

Officers who arrest juveniles will ensure that the juveniles are transported to the Public Safety Building (P.S.B.) Arrest and Detention Section without delay (unless a juvenile is in need of emergency medical treatment). All precautions and procedures relating to prisoner transportation will be followed as outlined in G.O. 400 L-1.

C. Parental Notification

The arresting officer will notify the parent or guardian of the juvenile of the fact that he or she has been taken into custody as soon as possible upon arrival at the police facility, and will provide directions to the police facility upon request. If the juvenile's parent or guardian cannot be reached and a relative or other caretaker will not take custody, the D.J.S. will be notified by the arresting officer immediately. This pertains to delinquent offenders, non-offenders, and status offenders.

D. D.J.S. Notifications

The arresting officer will notify the D.J.S. after first contacting; or attempting to contact, the juvenile's parent or guardian. The arresting officer will provide D.J.S. the juvenile's name, address, date-of-birth, telephone number, juvenile's involvement (delinquent, status offender, non-offender, etc.) and the name and telephone number of the parent/guardian contacted/attempted to contact.

E. Public and Private School Systems

In accordance with the Md. Code Ann. Education Article § 7-303(b), if a student is enrolled in any public or private school and is arrested for a reportable offense, the Superintendent of Schools and school principal must be notified of the arrest and charges.

Reportable offenses are those offenses in Md. Code Ann. Criminal Law Article § 14-101 defined as "crimes of violence", as well as the criminal acts outlined in the Md. Code Ann. Courts and Judicial Proceedings Article (CJ § 3-804(e)(4)) and Md. Code Ann. Criminal Law Article § 4-101. (See Appendix I.)

It is the responsibility of the Arrest and Detention Section supervisor to make said notification and to document the notification in the Jail Management System (J.M.S.).

F. Juveniles Charged as Adults

Juveniles arrested for certain criminal offenses shall be charged on a statement of charges/statement of probable cause and shall be afforded an initial appearance in the Maryland District Court. In these limited incidents, a juvenile shall be processed as an adult offender and will not be afforded the provisions outlined in the remainder of this Policy. (See Appendix II)

V. Custodial Interrogation

A. Juveniles have the same rights as adults regarding statements and confessions, including advisement of the juvenile's *Miranda* rights. Officers shall ensure that a juvenile understands these rights, as well as Department and juvenile justice system procedures. To ensure the juvenile's understanding, Officers shall consider 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 his 5th Amendment rights and the consequences of waiving those rights. Juveniles, like adults, may waive *Miranda* and make a voluntary statement during a custodial interrogation.

B. The request by a juvenile to see a parent generally shall be honored by the interrogating Officer(s), unless the circumstances dictate to the contrary. Officers should consider the inclusion of parent(s) in the interrogation process as dictated by the specific circumstances.

The interrogating Officer(s) shall make a determination on the inclusion of the juvenile's parent(s) during the interrogation as based upon the totality of the circumstances surrounding the interrogation and the factors listed in Subsection "A" above. Officers shall inform the juvenile that he/she has a right to speak to his/her parent(s), unless the circumstances dictate to the contrary.

- C. Juvenile interrogations/interviews will be conducted in the same general manner as adult interrogations/interviews, except that a juvenile's interrogation/interview shall be conducted with a high regard to the juvenile's interests. Consideration of the totality of the circumstances and the factors listed in Subsection "A" above shall be weighed by the interrogating Officer in determining the appropriate approach/manner of the interrogation. The duration of the interrogation will be limited as appropriate to the juvenile's age and the nature of the alleged offense, but will not exceed two hours without a break being offered. The number of officers engaged in the interrogation will not exceed two at any given time.

VI. Temporary Detention of Juveniles

Anytime a member of the department arrests or otherwise temporarily detains a juvenile, the following procedures will be followed:

A. Separation from Adult Offenders

Federal and State law prohibits the placement of juveniles with adult offenders in any type of holding cell or room. When a juvenile is detained at the P.S.B. for any reason, the juvenile will be separated by sight and sound from adult offenders. Contact of any nature between juvenile and adult offenders at the P.S.B. must not occur.

B. Delinquent Offenders

A juvenile charged with a criminal offense may be placed in a designated detention cell/room, but may not be held in any area where sight and sound separation from adult offenders cannot be maintained.

C. Status Offenders & Non-Offenders

Status offenders and non-offenders will not be placed in secured custody for any reason. Under no circumstances will the status offender be seated in the holding facility or booking area. Juveniles charged with alcohol abuse or tobacco violations are status offenders and may not be placed in secured custody. Status offenders may not be handcuffed or otherwise restrained, except to ensure the physical safety of the juvenile or a police employee. When such restraint becomes necessary, a written incident report is required prior to the end of the officer's tour of duty.

1. The juvenile should immediately be turned over to a parent, guardian, or relative by the officer transporting the youth directly from the scene to one of these caretakers. The D.J.S. should be called immediately for placement if the officer is unsuccessful in attempts to locate a caretaker.

The detaining officer will file a written police report containing all pertinent information including the name, date and time that a parent or guardian, and/or the Department of Juvenile Services/Social Services was notified.

2. While maintaining sight and sound separation from adult offenders, a designated police employee may sit with a status offender or non-offender while waiting for a parent or the D.J.S. personnel to arrive and take custody of the youth.

D. Uncontrollable Juveniles

Incorrigible (uncontrollable) juveniles should not be taken into custody merely because the parents, guardians or school authorities want the police to handle the situation, WITH THE FOLLOWING EXCEPTIONS:

1. If the juvenile is in the process of or has committed a criminal act, the officer will respond immediately and if necessary take the juvenile into custody, place the appropriate criminal charges, notify the parent/guardian of the juvenile's act and notify D.J.S. for possible placement.
2. In cases involving incorrigible (uncontrollable) nonviolent juveniles, the complainant will be referred to the D.J.S. and will be provided the proper phone number. In the event D.J.S. elects to place (shelter) the juvenile, D.J.S. should coordinate with the police if the Department's assistance is needed for placement.

E. Truants

A juvenile will not be held at the P.S.B. if he/she is truant. The officer will contact the school principal and transport the child back to the appropriate school.

F. Runaways

Officers should strongly encourage a runaway to talk about the reason for /her behavior. Many times children run away from home because of physical or sexual abuse, neglect, or alcoholism in the family. Runaways may be taken into custody but must be treated as status offenders as outlined in Section VI, C.

G. Child in Need of Assistance/Supervision (C.I.N.A./C.I.N.S.)

In cases where a child has been left without adequate assistance and/or supervision, the officer will attempt to have a relative or guardian take custody. If the attempts to locate a relative or guardian fail, the officer will notify the Department of Social Services to place the child. A C.I.N.A./C.I.N.S. may be taken into custody for the sole purpose of placement and must be treated as a non-offender.

H. Uncooperative Parents

If the parents/guardians have been contacted but refuse to cooperate, they are to be advised that they may be charged under Md. Ann. Code Family Law Article § 1-219, with "Desertion of a Minor Child" because their child is now considered "neglected" (child in need of assistance). If this is the case, the arresting officer's supervisor should contact the Department of Social Services for placement. The parents/guardian may be charged at a later time.

VII. Booking Procedure

The Arrest and Detention personnel responsible for processing a juvenile criminal offender, status offender, or non-offender will document the following information on the J.M.S. entry:

- A. Date and time of arrest;
- B. Name and address of the juvenile;
- C. Date of birth of the juvenile;
- D. Charge/reason for detention;
- E. Detention cell number or other information stating place of detainment;
- F. Time placed in detention cell/room, to also include notations indicating each time a juvenile is removed from a detention cell/room and returned to a detention cell/room;
- G. The name of the arresting officer and booking officer;
- H. Time of juvenile's release;
- I. Total time that the juvenile was held in a detention cell/room or otherwise securely held;
- J. Document any comments concerning the condition of the juvenile and/or instructions made by D.J.S., parent or guardian.

VIII. Detention Limits

Juvenile criminal offenders will not be held in secured custody in excess of six (6) hours. If the juvenile must be detained beyond six (6) hours for circumstances beyond the Department's control (parent/guardian/or relative is delayed or if any issues arise with D.J.S.), the juvenile must be removed from secured custody at the six (6) hour mark. In this case, the juvenile will be placed in a non-secure room, will be monitored by Arrest and Detention Section personnel, and will be handcuffed during this time. If any deviation of the above occurs, the following procedures apply:

- A. An Arrest and Detention Section supervisor must be notified;
- B. The D.J.S. must be notified;

- C. The Arrest and Detention Section supervisor shall complete a supplement report detailing the reason(s) why the juvenile was held in secured custody in excess of six (6) hour time limit;
- D. A copy of all written reports will be forwarded to the Support Services Commander and the Office of Professional Standards for review; and
- E. The Arrest and Detention Section supervisor shall highlight the exception to the secured custody limitations on all J.M.S. and R.M.S. entries regarding the juvenile in question.

IX. Reporting Requirements

An Incident Report (I.R.) is required for all matters regarding police custody of a juvenile. In matters of criminal activity, the narrative of the I.R. shall serve as a statement of probable cause regarding the actions of the juvenile suspect for the D.J.S. review.

At the conclusion of the narrative, police officers shall include:

- A. The specific crime(s) committed by the juvenile as outlined in the Maryland District Court Commissioners Manual and/or the Md. Code Ann. Transportation Article;
- B. The victim's name, address, telephone number(s) (if a criminal offense);
- C. The juvenile's parent/guardian contacted to include address, telephone number(s) and the time notification was made; and
- D. The date and time the D.J.S. was contacted to include the D.J.S. representative contacted.

X. Juvenile Records

- A. In accordance with the Annotated Code of Maryland, a police record (arrest and identification records) concerning a juvenile is confidential and will be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown. This does not prohibit access to and confidential use of the record by the D.J.S. or in the investigation and prosecution of the child by any law enforcement agency.
- B. The Department's Records Management Supervisor will establish written procedures for the collection, dissemination, and retention of fingerprints, photographs, and other forms of identification pertaining to juveniles. For the purpose of this Policy, "other forms of identification" include physical samples from the suspect (hair, blood, urine, nails, breath, or stomach contents) and handwriting samples.
- C. All requests for juvenile records will be referred to the Department's Records Section. The Department's Records Management Supervisor, serving as the custodian of records, is accountable for:

1. The collection, dissemination and retention of juvenile records;
 2. Procedures to carry out court-ordered expungement of records;
 3. Provisions governing disposition of records when juveniles reach adult age, pursuant to state law; and
 4. Restricting access to records on a need-to-know basis.
- D. Media inquiries for information regarding juveniles will be referred to the Department's Public Affairs Unit.

XI. Appendices

- A. Appendix I: Reportable Offenses
- B. Appendix II: Criminal Charge Guideline