

Salisbury University Police Department

CHAPTER 44 – JUVENILE OPERATIONS

44.1 Administration

- 44.1.1 Juvenile Operations Function**
- 44.1.2 Policy Input Relating to Juveniles**
- 44.1.3 Annual Program Review**

44.2. Operations

- 44.2.1 Handling Juvenile Offenders**
- 44.2.2 Procedures for Custody**
- 44.2.3 Custodial Interrogation**

Salisbury University Police Department

CHAPTER 44 – JUVENILE OPERATIONS

This chapter relates to the organizational and operational aspects of juvenile operations in compliance with state law.

44.1 Administration

44.1.1 Juvenile Operations Function

The University Police Department is committed to the development and continuation of programs designed to prevent and control juvenile delinquency.

All personnel of this department have responsibilities for and will be familiar with juvenile operations and procedures and their support. The Patrol Commander, or his/her designee, is responsible for juvenile operations and will act as liaison with other law enforcement agencies and other organizations involved in the juvenile justice system. Pertinent information obtained through liaison contacts will be shared with all officers through shift briefing, memoranda, etc. The Patrol Commander shall ensure specialized training, as available, is scheduled for all officers and CID investigators to effectively meet the department's juvenile operations function.

All members of the Department will cooperate with Department of Juvenile Services and support its activities. Department policies regarding juvenile operations will be provided to local juvenile court personnel for their review and comments and suggestions as to ways our procedures can be improved.

Within the functional area of juvenile operations, officers shall be responsible for:

- A. Conducting follow-up investigations of cases involving juvenile offenders;
- B. Processing juvenile offenders;
- C. Preparing and presenting cases involving juveniles in court; and
- D. Diverting juvenile offenders out of the criminal justice system;

44.1.2 Policy Input Relating to Juveniles

The University Police Department encourages utilization and support of social service agencies within its area in order to divert juveniles out of the court system as well as the University's Office of Student Affairs. Our policies and procedures relating to juveniles are developed utilizing feedback/input the agency may receive from supportive agencies to include, but not limited to:

- A. Wicomico County Health Department including Mental Health;
- B. Maryland Department of Social Services and Child Protective Services.

When investigating cases involving juveniles, the officer should recommend to parents and/or attempt to divert the juvenile to one of the social service agencies, when it is appropriate and determined that one of these agencies services may be more beneficial in correcting the situation than utilizing formal handling through the court system. Similarly, in formal handling of a juvenile, the officer may recommend appropriate service agency programs.

In matters concerning policies of juvenile procedures, the agency will solicit input from other juvenile justice system representatives in an effort to respond to the needs of the community in a professional manner. Those representatives include, but are not limited to:

- A. Department of Juvenile Services;
- B. Master of Juvenile Court; and
- C. Representatives of juvenile detention facilities such as the Lower Eastern Shore Children's Center.

44.1.3 Annual Program Review

While the department does not complete an annual review of enforcement and prevention programs relating to juveniles, the Field Operations Commander will monitor the number of criminal cases involving juveniles and the level of effectiveness of these programs. Additionally, if the juvenile offender is a student, the Office of Student Affairs shall be contacted.

44.2. Operations

44.2.1 Handling Juvenile Offenders

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 have run away from their parent or legal guardian. When a juvenile is arrested or otherwise taken into police custody, the following requirements will be followed without exception.

- A. Constitutional Rights

Juveniles are entitled to all Constitutional rights afforded adults. Officers will fully respect a juvenile's Constitutional rights.

- B. Transportation

Officers who arrest juveniles will bring the juveniles to the University Police Department without delay (unless a juvenile is in need of emergency medical treatment). All precautions and procedures relating to detainee transportation/temporary detention will be followed as outlined in Chapter 70 and 71

- C. Parental Notification

The arresting officer will notify the parents or guardians of the juvenile of the fact that he or she has been taken into custody as soon as possible upon arrival at the police department, and will provide directions to the police department upon request. If the juvenile's parent/guardian or other relative cannot be reached or cannot/will not take custody, the Department of Juvenile Services (DJS) will be notified by the arresting officer immediately.

Parental notification pertains to delinquent offenders, non-offenders and status offenders.

When dealing with the juvenile offender, officers must know the proper procedures and alternatives in handling juveniles and *are required* to use the least coercive among reasonable alternatives, consistent with preserving public safety, order, and individual liberty. **In all cases where a juvenile offender is a student of Salisbury University and has committed a violation of law or the University's Code of Conduct, the Office of Student Affairs shall be contacted.**

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

1. Separation from Adult Offenders

Federal and state laws prohibit the placement of juveniles with adult offenders in any type of holding facility or room. When a juvenile is detained and transported to this department for any reason, the juvenile will be separated by sight and sound from adult offenders. There must be no contact between juvenile and adult offenders, either in the police vehicle or department.

2. Delinquent Offenders

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

3. Status Offenders & Non-Offenders

Status Offender - an offender who commits an offense that would not be considered an offense if committed by an adult. Examples are truancy, runaway, underage possession and/or consumption of tobacco products, and underage alcohol offenses, child in need of assistance or child in need of supervision.

Delinquent Offender - an offender who commits a crime that would be considered an offense if committed by an adult.

Status offenders and non-offenders:

- a. Will not be placed in secure custody for any reason;
- b. Under no circumstances will the status offender be seated in the processing area;
- c. Will not be placed in secure custody;
- d. Will 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.

Status offenders and non-offenders may be released to a parent, guardian or other relative as soon as practical. Officers may transport these offenders from the scene directly to their residence or request that a parent or guardian pick up the juvenile from this department. The detaining officer will complete 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.

If transported to this department, while maintaining sight and sound separation from adult offenders if present, a police officer or other authorized custodial agent may sit with a status offender or non-offender while waiting for a parent or the Department of Juvenile Services personnel to arrive and take custody of the youth.

A. Factors Considered in the Informal or Formal Handling of Juvenile Offenders

1. Informal Handling is when the police officer manages a particular situation by releasing the juvenile under warning to the parent or guardian. This requires either the parent picking up the child or the officer taking the child home and informing the parents of the alleged offense or referring the incident to the Office of Student Affairs.
2. Formal Handling occurs when the juvenile is brought before the juvenile court or an intake officer for further processing and decision as to proper disposition of the juvenile.
3. In making the decision to handle either informally or formally, the police officer should consider the following factors:
 - a. Seriousness of offense.
 - b. Prior record of child and age of the juvenile;
 - c. Cooperation and attitude of all parties (child, parent, victim), and the possibility of the offense being repeated.
 - e. Degree of wrongful intent, violence, premeditation, knowledge of violation.
 - f. Is it likely the child or parent can be successfully referred to another social service agency.

B. Informal Handling of Juveniles

1. Informal handling includes the police officer's utilization of:
 - a. *Outright release with no further action (minor offenses only);*
 - b. Warning and release to a parent or guardian;
 - c. Requiring the parents to pick up the juvenile;
 - d. Taking the youth home and informing the parents of the reasons for his being picked up by police;
 - e. Notification to the University's Office of Student Affairs.
2. Generally, first offense situations involving the following types of offenses should be handled informally; however, the list is not complete and the officer's good judgment is important.
 - a. Disorderly conduct or drunkenness;
 - b. Loitering;
 - c. Minor Malicious Destructions with no prosecution; or
 - d. A status offense
3. When handling a case informally, the police officer should keep in mind that the objective of the juvenile justice system is to rehabilitate rather than punish. Keeping the child in the patrol car "discussing" the case for an inordinate length of time may appear to the juvenile to be punishment. The decision to handle on a formal or informal basis should be made within a reasonable amount of time.

(06/09/2016)

4. When handling a juvenile informally, the officer should still respect the youth's right to privacy. Any information gained should be provided to others only on a "need to know" basis.
5. When a police officer encounters a victim/complainant who demands to bring a child before the juvenile court despite the officer's belief that it should be handled informally, the intake officer from Department of Juvenile Services should be contacted for advice.
6. Even when he/she is being handled informally, the juvenile has all the constitutional rights that an adult would have in the same situation.

C. Formal Handling of Juvenile Offenders

1. Formal handling occurs when the juvenile is taken before the juvenile court or intake officer for their decision on the proper disposition of the juvenile.
2. Generally, the following situations will require formal handling of the juvenile:
 - a. Delinquent acts that if committed by an adult would be felonies;
 - b. Delinquent acts involving weapons;
 - c. Delinquent acts involving aggravated assaults and batteries;
 - d. Delinquent acts committed by juveniles under probation or parole or with a case pending;
 - e. Delinquent acts that are repeated; and
 - f. When parental supervision or diversion programs have proven to be ineffective.

D. Written Citations to Juveniles

An officer may utilize the *Maryland Uniform Complaint and Citation* (DR-49), just as for an adult, for juveniles 16 years and older. This citation may be used for violations of the traffic laws that do not carry possible sentences of incarceration.

In the event the traffic violation does carry a sentence of incarceration, juveniles (17 years of age and below) shall be charged on the "Police Request for juvenile Charges" form.

An officer may use the *Uniform Juvenile Civil Citation* (DC-31) to charge juveniles (17 years of age and below) unlawfully using alcoholic beverages or tobacco.

E. Department Form: "Police Request for Juvenile Charges"

Upon completion of the Juvenile Request for Juvenile Charges form, including the signature of the parent, guardian or custodian, the officer shall make a copy of the completed form, and give it to the person to whom the juvenile is released.

The original form will be filed in the criminal case file and forwarded to Records for submission of the form to Department of Juvenile Service.

Refer to 82.1.2 – Juvenile Records

(Revised 03/01/2013)

44.2.2 Procedures for Custody

Definitions

DETAINED - Formally held pending release to Department of Juveniles Services (DJS), Department of Social Services (DSS), parent, relative, guardian, or other. May be in an informal, non-secure room.

SECURELY DETAINED - Detention of a juvenile in a secure detention area or handcuffed to a stationary object.

JUVENILE - Any person under the age of 18 (whether under Juvenile or Criminal Court jurisdiction)

ACCUSED JUVENILE - A juvenile accused of a chargeable offense.

ADJUDICATED JUVENILE - A juvenile who has been before either the Juvenile or Adult Court and a determination has been made.

DELINQUENT OFFENDER - A juvenile who has been charged with an offense for which an adult can also be charged, but who is subject to the jurisdiction of the Juvenile Court.

STATUS OFFENDER - A juvenile who has been accused or adjudicated for an offense for which adults cannot be charged. Status offenses include:

- Child in Need of Supervision (CINS);
- Child in Need of Assistance (CINA);
- Runaway;
- *Alcohol and tobacco violations;*
- *Ungovernable; and*
- *Marijuana < 10 grams (first offense)*

TAKING JUVENILES INTO CUSTODY

- A. Juveniles may be taken into custody in accordance with the Annotated Code of Maryland, Section 3-814, "Courts and Judicial Proceedings."
 1. With legal detention order, or
 2. When child is alleged to be in need of services, and
 - a. There is clear and substantial danger to child's life or health, or
 - b. Custody is necessary to ensure child's appearance before court, or
 3. When, in the presence of arresting officer, the child commits a crime and the officer believes custody is necessary for protection of public interest, or
 4. The Officer has probable cause to believe child has committed an offense which if committed by adult could be a felony, or
 5. Officer has probable cause to believe child has either run away from home or is without adult supervision at night and under certain circumstances the officer reasonably concludes there is clear and substantial danger to child's welfare.

(Revised 06/09/2016)

B. Procedures for Juveniles that Have Been Taken Into Custody/Juvenile Arrest Documentation

1. When the Department of Juvenile Services (DJS) is open, and depending on the circumstances, officers should contact that agency, if the officer intends to process formal charges to determine pre-trial release of the juvenile.

2. When the Juvenile Services Office is closed, depending upon the circumstances, the officer may release the juvenile to a parent or guardian.

If the officer feels immediate juvenile services intervention is necessary, the officer should contact the juvenile intake officer on call for assistance in the disposition of the juvenile. An on-call phone number for the Department of Juvenile Services intake officer is available in the Communications Center.

If detention of the juvenile is authorized, a copy of the case report must be provided to DJS. This report will be forwarded by the Administrative Assistant during regular business hours. If a juvenile is detained by DJS, the charging officer will provide a copy of all reports required by DJS.

3. If the juvenile is in need of emergency medical treatment, it will be procured without delay. The Squad Supervisor will immediately advise the on-call Commander of the circumstances and location of the juvenile.

4. Immediate notification of parents or guardians is required in every case of a juvenile being taken into custody in order to inform them of the circumstances and/or to pick the juvenile up if necessary.

5. *If it is necessary to take the juvenile into custody, he/she will be transported without delay to SUPD or a juvenile detention facility. Officers will exercise care to minimize possible embarrassment to the juvenile and his/her family.*

6. In no case shall a juvenile, unless waived to adult jurisdiction or charged as an adult, be transported in a police vehicle with adults suspected of or charged with criminal acts.

7. Any juveniles taken into custody shall be immediately advised by the officer of their constitutional rights (Miranda), if interrogation of the juvenile will be conducted.

8. During processing, or while awaiting release or approval to transport to a juvenile facility, juveniles may, depending on the circumstances, be held unsecured under direct supervision, placed in a temporary detention area or secured to an approved stationary object.

9. All juvenile offenders (status offenders, non-offenders and delinquent offenders) must remain sight and sound separated from adult offenders in all secured areas of the Department.

10. Delinquent juvenile offenders shall not be held in a secure area for more than a total of six hours and will remain under continuous visual supervision. Juveniles must also be physically checked on at least every 15 minutes.

The six-hour period begins when the juvenile is actually placed into a secure area, Room 152A, or handcuffed to a stationary device located within the processing area. If unable to transport or release a juvenile offender within the six hours, the juvenile may be handcuffed, placed in a non-secure area and directly supervised by an officer until transported or released. Any violations of the six-hour rule must be thoroughly documented as to the reason and include the names of parents, guardians, relatives, the DJS Intake Officer and DJS supervisors contacted.

Semi-annually, the Administrative Commander will complete a *Secure Juvenile Holding log* required by the Governor's Office of Crime Control and Prevention.

11. The Juvenile Detention Log, SUPD form 020 and the Juvenile Arrest Ledger, SUPD form 021 will be completed when juveniles are held in secure custody. The Detainee Screening Record – form 025 – will also be completed, placed in the case report and turned into prior to the end of the officer's tour of duty. All of these forms are located in the processing area of the department.

C. Fingerprints and Photographs of Juveniles

1. Fingerprints (FBI and Maryland) and photographs shall be taken of a juvenile regardless of age or offense if the law enforcement officer has probable cause to believe that, if the offense had been committed by an adult, an arrest would be made.
2. Other physical samples may be taken from a juvenile for identification purposes only after the officer has conferred with the Wicomico State Attorney's Office for advice and assistance as to the legalities and proper procedure for obtaining such samples. Samples felt necessary might include, but are not limited to: hair, blood, urine, nails, breath, stomach contents, handwriting, etc.

Refer to 1.2.3 - Constitutional Requirements and Compliance

Refer to 1.2.5 – Arrest Procedures

D. Confidentiality of Records/Release of Information

1. Maryland State law requires that all law enforcement agencies take special precautions to ensure that law enforcement records concerning a child are protected against disclosure to any unauthorized person.
2. Police Officers may release, upon request to one another and to other local state or federal law enforcement officers, current information on juvenile arrests, limited to name, address, physical description, date of arrest, and charge for which the arrest was made. Such information may only be used for current investigation and not for creation of new individual files or records.
3. Access to Juvenile Records may be authorized by Criminal Justice Information System Central Repository (CJIS) in certain situations.
4. Juvenile records are confidential and will not be released to anyone other than law enforcement agencies and the DJS and/or the WCSAO. Juvenile records will not be released by subpoena. **According to Maryland Law, Courts and Judicial Proceeding, Section 3-827, juvenile records may only be released by order of the court upon good cause being shown.**

5. Federal agencies, military recruiters and private employers cannot access juvenile arrest records to conduct security clearances or background investigations for employment purposes.

Refer to 82.1.1 – Family Educational Rights and Privacy Act (FERPA)

E. School Notification for Juvenile Arrests

1. Consistent with Maryland Educational Article (ED) 7-303, agency employees are responsible for ensuring public school superintendents, or their designees, are notified whenever children enrolled in Maryland school systems and school programs are arrested for:
 - a. Crimes of violence as defined in CR 14-101;
 - b. Any of the offenses enumerated in § 3-8A-03(d)(4) of the Courts Article;
 - c. A violation of § 4-101, § 4-102, § 4-203, or § 4-204 of the Criminal Law Article;
 - d. A violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, § 5-627, or § 5-628 of the Criminal Law Article;
 - e. A violation of § 4-503, § 9-504, or § 9-505 of the Criminal Law Article;
 - f. A violation of § 6-102, § 6-103, § 6-104, or § 6-105 of the Criminal Law Article;
 - g. A violation of § 9-802 or § 9-803 of the Criminal Law Article;
 - h. A violation of § 3-203 of the Criminal Law Article;
 - i. A violation of § 6-301 of the Criminal Law Article;
 - j. A violation of § 9-302, § 9-303, or § 9-305 of the Criminal Law Article; or
 - k. A violation of § 7-105 of the Criminal Law Article.
2. Juveniles attending private schools and adults attending public schools are not covered by the requirements of ED 7-303.
3. Agency officers arresting and subsequently charging juveniles with crimes coming under the requirements of ED 7-303 will:
 - a. Attempt to obtain from arrested individuals the names of any applicable Maryland public schools or public school programs they are attending;
 - b. Attempt to verify school attendance information through parents or guardians; and
 - c. Include school attendance information in report narratives.
4. Officers who arrest juveniles and charge them with crimes under the requirements of ED 7-303 shall:
 - a. Document within the case report that notification must be made to the appropriate Superintendent's office.
 - b. The Administrative Assistant, upon review of each case report, shall send the information required under this section via fax to the Superintendent's office.
 - c. The original faxed document and transmission page will be maintained in the appropriate case file.

F. Apprising victims of a juvenile offense or the status of the case and possible alternatives for restitution, etc. (Refer to Chapter 55)

Refer to 54.1.1 – Release of Juvenile Information to the Media

Refer to 82.1.2 – Juvenile Records

44.2.3 Custodial Interrogation

In determining whether a confession is voluntary, Officers shall understand that the courts look to the totality of the circumstances related to the juvenile defendant which includes a review of factors. These factors may include:

1. Age, intelligence, educational background, mental capacity, physical condition;
2. Whether the defendant suffers from any injury or pain when the statement is given;
3. The duration of the questioning and the time of day;
4. Whether the defendant is tired and is desirous of sleep;
5. Whether Miranda warnings were given, when, and whether he/she understood them;
6. Whether the defendant was handcuffed or threatened;
7. Whether the defendant was refused the use of a bathroom, food, or drink;
8. Whether the parent(s) were notified and/or present;
9. Whether the police prevented a concerned adult from speaking with the juvenile, and
10. Familiarity with English or the official language.

As such, officers shall adhere to the following procedures in the event a juvenile (17 years of age and under) is taken into custody:

- A. *If a juvenile is in custody and is to be interviewed, he/she will be informed of their constitutional rights. It is not necessary for a parent or guardian to be present during the interview however the above (1-13) should be taken into consideration before questioning begins.*
- B. *If a parent, guardian or attorney is requested by the juvenile, questioning will stop and the juvenile will be given the opportunity to consult with the requested person.*
- C. When questioning a juvenile in custody, the same rules and procedures used for an adult must be followed. Under no circumstances should the juvenile, any more than the adult, be compelled to answer questions either by physical force or psychological pressure or deceptions.
- D. *No juvenile can be compelled to answer any questions which may tend to incriminate him/her. Juveniles are entitled to the full Miranda rights and these rights outlined on SUPD form 001 – Constitutional Rights – will be read/explained to the juvenile and completed in full with signature at which time the juvenile may waive or retain his/her rights.*
- E. Officers should keep in mind that when questioning a juvenile, they should not prolong the interview period any longer than is needed in order to complete their investigation. Also, the interrogation should be handled by one officer, if at all possible, in order to lessen the chance of the juvenile feeling intimidated or pressured. In all cases, juveniles will be interrogated by no more than two officers at one time.
- F. Because in many cases, juveniles may not understand what is happening to them during the interrogation process, the officer should explain to them what to expect as far as procedures are concerned and how the court system works.

Refer to 1.2.3 – Constitutional Requirements and Compliance

Refer to 1.2.5 – Arrest Procedures

Refer to 44.2.2 – Procedures for Custody

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