

**FREDERICK POLICE DEPARTMENT
GENERAL ORDER**

Section 5: Special Populations
Topic: JUVENILE PROCEDURES
Approved: 03/16/16
Review: Annually in March by Patrol Commander
Supersedes: G.O. 520 dated 06/01/12

Order Number: 520
Issued by: Chief of Police

.01 PURPOSE:

To specify law enforcement procedures regarding juveniles.

.02 CROSS-REF:

G.O. [155](#), "Required Incident Paperwork"
G.O. [557](#), "Missing Persons"
G.O. [770](#), "Prisoner Transport"
G.O. [773](#), "Sick or Injured Prisoners"
G.O. [775](#), "Searching of Prisoners"
Form: [Juvenile Arrest Record / Cell Check Form](#) OSB-160
CALEA STANDARDS 1.2.3; 1.2.5; 44.1.1; 44.2.1; 44.2.2; 44.2.3

.03 DISCUSSION:

Contacts with juveniles involve numerous procedures and conditions, which differ from those pertaining to adults. All personnel must be aware of the doctrine of "parens patriae," i.e., that the state plays the role of parent to juveniles rather than adversary. For its part, the Department will adhere to this philosophy and will seek to employ the least forceful alternative(s) that is the most appropriate allowed by law when disposing of cases involving juveniles. The contents of this Order, that set forth guidelines for the treatment of juveniles, reflect that philosophy.

.04 POLICY:

The Department is committed to a policy of active cooperation with all concerned agencies, groups, and parties in order to obtain the appropriate services for those juveniles who, for one reason or another, come into the custody of the Department. In addition to enforcing laws that address juvenile crime, the Department also subscribes to a philosophy of action that stresses the prevention and control of juvenile delinquency. The responsibility for participating in or supporting the agency's juvenile operations function is shared by all agency components and personnel.

.05 DEFINITIONS:

ARREST - for the purpose of this Order, pertains to taking a juvenile into custody for the commission of a delinquent act.

CHILD - a person under eighteen (18) years old.

CINA - a child in need of assistance. A juvenile who, regardless of whether or not they have or have not committed a prohibited act, may be in need of immediate assistance from a service provider for any number of emotional, medical, mental, or physical concerns that are not being appropriately attended to by the juveniles' parents/guardians.

CINS - a child in need of supervision. A juvenile who has committed a *status offense*.

DELINQUENT ACT - a crime committed by a juvenile, that would be considered a crime if committed by an adult.

IN ABSENTIA ARREST - referring charges to the Department of Juvenile Services (DJS) without

a juvenile physically being taken into custody.

INFANCY - as defined by the Annotated Code of MD, a child under the age of seven (7) who is, by virtue of his/her age, conclusively presumed incapable of committing a crime.

JUVENILE - a child, as defined above.

PROTECTIVE CUSTODY - in accordance with Section 3-8A-14 of the Courts and Judicial Proceedings Article, custody of a juvenile while police personnel determine or transport the juvenile to a more suitable placement facility, i.e., hospital, police facility, Department of Juvenile Services or Child Protective Services care facility, not including secure detention facilities. Officers who place a juvenile into protective custody will use only the minimum force necessary to protect the child and themselves, and will utilize handcuffs only when the failure to do so would compromise officer safety. The use of handcuffs will be noted in an Incident Report.

STATUS OFFENSE - an act, or conduct, declared by statute to be an offense, but only when committed or engaged in by a juvenile, and that can only be adjudicated by a juvenile court.

.10 CHILD CUSTODY DECREES:

No member of the Department will enforce, nor attempt to enforce, a custody decree, separation agreement or judgment of absolute divorce rendered by any court of this or of any other state. Such judicial orders are civil as opposed to criminal in nature and are enforced by the family courts of this state. However, a member will initiate the following actions to fulfill his responsibilities in connection with any such call for service:

1. Such action as is necessary to stop a disturbance, or to prevent or terminate a breach of the peace.
2. Exert every reasonable effort to secure proper identification from all involved in any such call for service, and will query both MILES and NCIC to determine:
 - A. whether or not any child involved in any such dispute has been entered as "missing;" and,
 - B. whether or not any custodian of any child involved in the dispute has been entered as "wanted."
3. Take into custody, pursuant to Section .15 of this Order, any child whom they have reasonable grounds to believe is in immediate danger from his/her surroundings and whose removal from those surroundings is necessary to ensure his/her protection.
4. Effect the arrest of any custodian of any child involved in the call for service whom they have probable cause to believe has committed a crime and meets the criteria for an on-scene arrest.
5. Enforce ex parte orders, peace orders and protective orders signed by a judge in a court of this state or out of state as provided by law.

.15 CHILDREN IN NEED OF ASSISTANCE:

1. Whenever an officer becomes aware of a juvenile that meets the previously-defined criteria for a Child In Need of Assistance (CINA), the juvenile will be taken into protective custody and transported to Headquarters, or to Frederick Memorial Hospital (FMH). Upon arrival at Headquarters or FMH, the officer will immediately contact the Child Protective Services (CPS) branch of the Department of Social Services or the juvenile's parent/guardian, whichever is most appropriate based on the circumstances of the protective custody, and apprise them of the situation. The officer and his/her supervisor

will then be guided by the input of CPS personnel or the parent/guardian as it applies to a final disposition of the CINA. In cases where it is necessary to initially contact CPS personnel in regard to a CINA, the juvenile's parent/guardian, if they were not on-scene when the CINA was taken into protective custody, will be contacted as soon as practical, but in all cases *after* the initial contact has been made with CPS. All CINA situations will be documented in an Incident Report.

2. A juvenile that is held in protective custody at a police facility will be monitored at all times by a sworn member of the department. A Juvenile Arrest Record / Cell Check Form (OSB-160) will be completed detailing the times and dates the juvenile was held in police custody. The form will be attached to all paperwork submitted under the incident report number.

.20 JUVENILE INJURIES:

Whenever a member comes into contact with a juvenile who possibly may be injured, regardless of the circumstances, and that juvenile refuses medical treatment that the member deems necessary to treat the injuries, the member will take the juvenile into protective custody. The member will immediately cause the parents/guardian to be contacted and informed of the injury and determine from the parent/guardian the specific course of action the member should pursue with reference to that juvenile. However, in the event the juvenile's parents/guardian cannot be contacted immediately, the member will cause that juvenile to be transported to the Emergency Room of Frederick Memorial Hospital via ambulance where a physician can determine whether or not medical treatment is necessary. Attempts to contact a parent/guardian must continue until they are actually contacted and final disposition of the child can be determined. All actions will be documented in an Incident Report.

.25 TAKING CUSTODY OF JUVENILES:

1. Juveniles Committing Delinquent Acts:
 - A. The Criminal Procedure Article Sections 2-201 through 2-206 mandates that all arrests, including arrests of juveniles, will be in accordance with the laws of arrests. It is the responsibility of arresting officers to ensure that all of the constitutional rights of juveniles are protected.
 - B. Those juveniles who are taken into custody for committing a delinquent act will be taken as expeditiously as possible to police headquarters for processing. The parents or guardian will be contacted as soon as practical and asked to respond to headquarters to take custody of their child, if releasable. If the parents refuse to take custody or are unavailable to take custody of the juvenile, DJS personnel will be contacted for appropriate guidance.
 - C. Juveniles will not be held in a locked room or cell for a period exceeding six (6) cumulative hours. Merely removing a delinquent offender from the cell does not reset the six hour clock.
 - D. The juvenile will be kept separated from adult arrestees by sight and sound at all times.
 - E. Officers who arrest juveniles for offenses where the arresting officer has a concern that releasing the juvenile to their parent or guardian would pose a substantial risk to public safety will notify their immediate supervisor. An intake officer with the Department of Juvenile Services will be contacted and consulted regarding temporary placement of the juvenile in a juvenile detention facility or shelter care facility.
 - F. Officers who have had a juvenile temporarily placed in a juvenile detention facility

will contact the juvenile section of the Frederick County State's Attorney's Office on the morning of the next normal business day for the Courthouse to determine if they will be needed for the juvenile's detention hearing.

G. Juveniles taken into custody for the commission of delinquent acts will be processed as follows:

- (1) ;1 digital photograph
- (2) fingerprints: utilizing Livescan; and
- (3) [Juvenile Arrest Record / Cell Check Form](#) OSB-160

2. Juveniles Committing Status Offenses:

A. Status offenders will not be placed in any locked room nor handcuffed to a stationary object. For officer safety issues, they may be handcuffed, but only if an officer remains with them at all times. The use of handcuffs will be documented in the Incident Report.

B. Status offenders may accompany the officer in the processing area of headquarters for processing. At no time is a status offender authorized to be in the processing area unaccompanied or for a period of time exceeding one (1) hour.

C. Juveniles committing status offenses involving the possession of alcohol or tobacco products will be issued the appropriate State of Maryland civil citations for those offenses (refer to Section .35.1 below).

D. Officers completing form OSB-160 will list the appropriate/specific Status Offense committed by the juvenile. **At no time should officers list "CINS" as an offense.**

E. Runaways:

(1) Pursuant to Section 3-814 of Courts and Judicial Proceedings, an officer may take a juvenile status offender into custody if the officer has reasonable grounds to believe that the juvenile has run away from his/her parents or guardian.

(2) Alleged "out of control" juveniles or runaway juveniles who return home will not be removed at the request of the parent or guardian unless a thorough investigation leads the officer to believe the situation is potentially dangerous and harmful. At this point, the juvenile will only be removed from the home if DJS personnel authorize detention/shelter, or in accordance with Section .15 (CINA procedures) of this Order. Regardless of the disposition of the juvenile, officers will complete a thorough Incident Report and ensure that a copy of the report is referred to DJS.

(3) Should detention/shelter be authorized, DJS personnel will advise the officer of the name of the facility to which the juvenile is to be transported and they will contact the facility to advise them the police are en route.

.30 JUVENILE DELINQUENT REFERRALS (ARRESTS IN ABSENTIA):

1. Any time an officer completes and submits a report describing a juvenile's delinquent

activity, by law the case is automatically referred to the Department of Juvenile Services. This referral will be accomplished by the Records Section.

2. When probable cause exists to believe the juvenile committed a delinquent act but a custodial arrest is not appropriate, the officer will make an in absentia arrest in the following manner:
 - A. An officer will conduct a thorough investigation of the event and complete an Incident Report and an accompanying [Juvenile Arrest Record / Cell Check Form OSB-160](#) (for descriptors and charges) to be forwarded to DJS.
 - B. The officer will provide the victim with a Victim Information Brochure.
 - C. The victim will be provided with aCR# and will have explained to them why a custodial arrest was not made and that the case will be referred to DJS for adjudication and disposition.
 - D. The referring officer will ensure that the juvenile's parent/guardian is notified of the circumstances surrounding the incident as soon as practical and inform them of the referral to DJS.

.35 ISSUANCE OF CITATIONS (CIVIL AND MOTOR VEHICLE):

1. Civil Citations:
 - A. Juveniles can be issued citations for civil offenses only, i.e., underage alcohol possession, underage tobacco product possession and possession of marijuana less than 10 grams. All other criminal offenses will be documented and processed as detailed in .25.1 and .30 of this Order.
 - B. Whenever a civil citation is issued to a juvenile, the issuing officer will make every attempt to notify the juvenile's parent/guardian of the circumstances surrounding the issuance of the citation. At the very least, parent/guardian information will be obtained and will be entered at the appropriate location on the rear of the citation (refer to Section .35.1.C).
 - C. The Records Section will mail a copy of the citation to the parent/guardian of juveniles who have been issued a civil citation, unless the officer was able to personally deliver their copy to the parent/guardian.
2. Motor Vehicle Citations:
 - A. Jurisdictional Issues:
 - (1) The Juvenile Court has jurisdiction over a child under 18 years of age alleged to have committed an act in violation of any provision of the Transportation Article or other traffic law or ordinance that prescribes a penalty of incarceration. The juvenile will be charged as prescribed in .25.1 or .30 of this Order. The charging document is filed directly with the State's Attorney's Office and a copy is sent to DJS.
 - (2) DJS has jurisdiction over a child under 16 years of age alleged to have committed an act in violation of any provision of the Transportation Article or other traffic law or ordinance. The juvenile will be charged as prescribed in .25.1 or .30 of this Order and referred to DJS.
 - B. Issuance of Citations:

- (1) Juveniles aged 16-17 who violate a MD Vehicle Law that is not a jailable offense may receive a traffic citation without notification of a parent/guardian. These cases will be adjudicated in the District Court.
- (2) Juveniles for whom DJS has jurisdiction noted above in Section .35.2.A (1), will be taken into custody and processed in accordance with Section .25.1.F.
- (3) Juveniles for whom DJS has jurisdiction noted above in Section .35.2.A (2) will not be issued traffic citations. These juvenile violators will be taken into custody in accordance with Section .25.1 of this Order.

.40 CUSTODIAL INTERROGATIONS OF JUVENILES:

When juveniles are taken into custody, they will be immediately advised of their rights per Miranda if they are to be questioned or interrogated concerning their involvement in a delinquent act.

1. Whenever possible, FPD Form #182 (Miranda Rights) will be utilized.
2. Particular care must be taken to ensure that the juvenile fully comprehends his Miranda Rights.
3. A juvenile's parents or guardian do not have to be present for officers to interrogate a juvenile in custody; however, discretion will be used when weighing the severity of the offense and whether or not to have a parent or guardian present. If a juvenile requests a parent/guardian, questioning will be delayed until the parent/guardian arrives and the parent(s) will be allowed to be present during the interrogation.
4. If a juvenile or his/her parents requests the presence of an attorney, interrogating officers will discontinue the interrogation and will afford the juvenile the same rights as those afforded adults.
5. No more than two officers will be present during an interrogation.
6. Interrogations will be of reasonable duration, with regular breaks for use of facilities or consultation with counsel or parent/guardian.
7. An officer interrogating a juvenile will explain the Department's and DJS's procedures regarding custody, detention, release, etc.

.45 RESPONSE TO JUVENILE INCIDENTS ON SCHOOL PROPERTY:

It is important to understand that incidents involving juvenile acts on school property are frequently handled differently than similar incidents occurring at other locations; however, officers will always adhere to the laws of arrest when dealing with juveniles who have committed delinquent acts on school grounds.

1. Incidents While School Is In Session:
 - A. For incidents for which there is no observable emergency, upon arrival, responding officers will:
 - (1) respond to the administrative office of the school and confer with the administrator who requested the assistance;
 - (2) take the appropriate and necessary police action;

- (3) notify the on-duty supervisor of any arrest or other enforcement action taken as soon as practical after the incident has been resolved; and,
 - (4) properly document the incident per departmental reporting procedures.
- B. Emergency situations will be addressed immediately with appropriate and necessary police action. The provisions of .45.1.A will be adhered to after the emergency has been resolved.
- C. Juvenile Arrests on School Property:
- (1) Make every effort to attract minimal attention from the student body.
 - (2) Ensure the ranking school administrator is aware of the arrest and removal of any student from school property. The notification will be made prior to the student's arrest unless exigent circumstances prohibit it, in which case the ranking school administrator will be notified as soon as possible after the student's removal. The administrator's name will be included in the appropriate police report.
 - (3) All incidents which occur on school property which result in an arrest or specific enforcement action should be documented thoroughly on an Incident Report by the end of the responding officer's tour of duty.
 - (4) Parents/guardians will be notified of the juvenile's arrest as soon as practical after the juvenile has been taken into custody. Under no circumstances will arresting officers assume that school officials have notified parents/guardians. If uncertain, arresting officers will initiate contact with parents/guardians as soon as practical after the incident has been resolved.

2. Extracurricular/School Sponsored Events:

- A. Officers who are assigned to school events or are working the event off-duty as an off-duty assignment, will handle all incidents in the same manner as described in this Order.
- B. In the event an arrest is made during these events and a juvenile is taken into custody and removed, the on-site school administrator will be notified of the incident and given the student's name, age, and address if known.
- C. Due to the arrest, should the officer working the event determine that his absence from the event while processing the arrestee would jeopardize safety and/or good order at the event, the officer shall contact the on-duty supervisor for guidance.
- D. Any arrest or enforcement action during an extracurricular/school-sponsored event shall be documented on an Incident Report prior to the end of the arresting officer's tour of duty.

3. Investigation/Questioning of Students:

- A. Except under the most compelling circumstances in which an immediate arrest must be made for safety reasons, no student identified as a suspect in a criminal

investigation for an act that occurred outside the school environment will be taken into custody while on school property or questioned while school is in session.

- B. Should an investigating officer believe that the circumstances of a crime warrant the apprehension and/or questioning of a student while school is in session, they will confer with an on-duty supervisor and be guided by his direction. The ranking school administrator will be apprised of the situation prior to initiating any action and will be present during the questioning or apprehension of any student that occurs on school property.

4. Notification of Parents/Guardians:

In the event that a juvenile student is arrested and removed from school property, the arresting officer will ensure that the student's parent/guardian is notified of the fact as soon as practical after being taken into custody. Officers should never assume an administrator has contacted the juvenile's parents or guardian, unless done so in the officer's presence.

.50 CHARGING JUVENILES AS ADULTS:

- 1. Section 3-804 of the Courts and Judicial Proceedings Article outlines the offenses with which juveniles will be charged as adults. Accordingly, since the Juvenile Court does not have jurisdiction over a juvenile initially charged as an adult, officers will charge the juvenile as adults in accordance with the statutes stated below, in accordance with departmental policy and practice (G.O. 155, "Required Incident Paperwork") and transported to Central Booking. These specific offenses are listed below:

A. AGE 14 and OLDER

- (1) Murder, 1st Degree (C.R. 2-201)
Attempt (C.R. 2-205)
- (2) Rape, 1st Degree (C.R. 3-303)
Attempt (C.R. 3-309)
- (3) Sex Offense, 1st Degree (C.R. 3-305)
Attempt (C.R. 3-311)
- (4) Any conspiracies of above (CR)
- (5) Any solicitations of above (CR)

B. AGE 16 and OLDER

- (1) Abduction (C.R. 11-305)
- (2) Kidnapping (C.R. 3-502)
- (3) Murder, 2nd Degree (C.R. 2-204)
Attempt (C.R. 2-206)
- (4) Voluntary Manslaughter (C.R. 207)
- (5) Assault, 1st Degree (C.R. 3-202)
- (6) Rape, 2nd Degree (C.R. 3-304)
- (7) Sex Offense, 2nd Degree (C.R. 3-306)

- Attempt (C.R. 3-310)
- (8) Sex Offense, 3rd Degree (C.R. 3-307)
- (9) Armed Robbery (C.R. 3-403)
Attempt (C.R. 3-404)
- (10) Armed Carjacking & Carjacking (C.R. 3-405)
- (11) Wear, Carry, Transport Handgun & Use of Handgun in
Commission of Felony/Crime of Violence (C.R. 4-203)
- (12) Firearms and Drug Trafficking (C.R. 5-621)
- (13) Possess Firearm with Prior CDS Conviction (C.R. 5-907)
- (14) Possess/Use Machine Gun (C.R. 4-404 & C.R. 4-405(b) to (d))
- (15) Possess, Sell, Transfer Handgun - Previous Conviction
Crime of Violence (Art. 27, Sec. 445)
- (16) Possess, Sell, Transfer Stolen Handgun (Art. 27, Sec. 446)
- (17) Possess Short-Barreled Rifle/Shotgun (Art. 27, Sec 481C)
- (18) Non-Jailable Traffic and Boating Offenses

2. Juveniles to be waived to adult status for any other delinquent act other than those stated in .50.1 of this Order must be done so by the prosecutors of the Juvenile Court system via a waiver hearing, and only subsequent to the juvenile being initially charged by an officer as a juvenile as outlined throughout this Order.

.55 INFORMAL CASES:

The previous provisions of this Order are not meant to preclude officers from handling juvenile cases informally when appropriate. Informal handling of a particular juvenile matter is accomplished by releasing the juvenile under warning to his parent/guardian, consistent with the preservation of public safety, order, and individual liberty. When deciding whether or not to handle a juvenile matter informally, officers should be cognizant of the fact that the objective of the juvenile justice system is to rehabilitate rather than punish and that this objective should be carried through when an officer is handling a case in such a manner. Even when juveniles are being handled informally, they maintain all of the constitutional rights that an adult would have in the same situation.

.60 CONFIDENTIALITY OF JUVENILE INFORMATION:

All records and information pertaining to juvenile matters, especially relating to past involvement with police or juvenile authorities, are *confidential* and will not be released to victims, complainants, witness, media, etc., unless allowed by law or directed by a court order. Juvenile information will only be released per procedures in Section .40 of G.O. 1515, "Juvenile Records."

.65 COMMUNICATION WITH OTHER ELEMENTS OF THE JUVENILE JUSTICE SYSTEM:

DJS and the juvenile section of the Frederick County State's Attorney's Office will be consulted, encouraging their review and comments relating to the procedures outlined in this Order.